



भारत का संविधान

[1 मई, 2024 को यथाविद्यमान]

THE CONSTITUTION OF INDIA

[As on 1st May, 2024]

2024

भारत सरकार
विधि और न्याय मंत्रालय
विधायी विभाग, राजभाषा खण्ड
GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
LEGISLATIVE DEPARTMENT, OFFICIAL LANGUAGES WING

PREFACE

This is the sixth pocket size edition of the Constitution of India in the diglot form. In this edition, the text of the Constitution of India has been brought up-to-date by incorporating therein all the amendments up to the Constitution (One Hundred and Sixth Amendment) Act, 2023. The foot notes below the text indicate the Constitution Amendment Acts by which such amendments have been made.

The Constitution (One Hundredth Amendment) Act, 2015 containing details of acquired and transferred territories between the Governments of India and Bangladesh has been provided in Appendix I.

The Constitution (Application to Jammu and Kashmir) Order, 2019 and the declaration under article 370(3) of the Constitution have been provided respectively in Appendix II and Appendix III for reference.

New Delhi;
1st May, 2024

Dr. Rajiv Mani,
Secretary to the Government of India.

LIST OF ABBREVIATIONS USED

Art., arts.	<i>for</i> Article, articles.
Cl., cls.	" Clause, clauses.
C.O.	" Constitution Order.
Ins.	" Inserted.
P., pp.	" Page, pages.
Pt.	" Part.
Rep.	" Repealed.
Ss., ss.	" Section, sections.
Sch.	" Schedule.
Subs.	" Substituted.
w.e.f.	" with effect from.
w.r.e.f.	" with retrospective effect from.

THE CONSTITUTION OF INDIA

CONTENTS

PREAMBLE

PART I

THE UNION AND ITS TERRITORY

ARTICLES

1. Name and territory of the Union.
2. Admission or establishment of new States.
- [2A. Sikkim to be associated with the Union.—*Omitted.*]
3. Formation of new States and alteration of areas, boundaries or names of existing States.
4. Laws made under articles 2 and 3 to provide for the amendment of the First and the Fourth Schedules and supplemental, incidental and consequential matters.

PART II

CITIZENSHIP

5. Citizenship at the commencement of the Constitution.
6. Rights of citizenship of certain persons who have migrated to India from Pakistan.
7. Rights of citizenship of certain migrants to Pakistan.
8. Rights of citizenship of certain persons of Indian origin residing outside India.
9. Persons voluntarily acquiring citizenship of a foreign State not to be citizens.
10. Continuance of the rights of citizenship.
11. Parliament to regulate the right of citizenship by law.

ARTICLES

PART III

FUNDAMENTAL RIGHTS

General

12. Definition.
13. Laws inconsistent with or in derogation of the fundamental rights.

Right to Equality

14. Equality before law.
15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.
16. Equality of opportunity in matters of public employment.
17. Abolition of Untouchability.
18. Abolition of titles.

Right to Freedom

19. Protection of certain rights regarding freedom of speech, etc.
20. Protection in respect of conviction for offences.
21. Protection of life and personal liberty.
- 21A. Right to education.
22. Protection against arrest and detention in certain cases.

Right against Exploitation

23. Prohibition of traffic in human beings and forced labour.
24. Prohibition of employment of children in factories, etc.

Right to Freedom of Religion

25. Freedom of conscience and free profession, practice and propagation of religion.
26. Freedom to manage religious affairs.
27. Freedom as to payment of taxes for promotion of any particular religion.
28. Freedom as to attendance at religious instruction or religious worship in certain educational institutions.

ARTICLES*Cultural and Educational Rights*

- 29. Protection of interests of minorities.
- 30. Right of minorities to establish and administer educational institutions.
- [31. Compulsory acquisition of property —*Omitted.*]

Saving of Certain Laws

- 31A. Saving of Laws providing for acquisition of estates, etc.
- 31B. Validation of certain Acts and Regulations.
- 31C. Saving of laws giving effect to certain directive principles.
- [31D. Saving of laws in respect of anti-national activities.—*Omitted.*]

Right to Constitutional Remedies

- 32. Remedies for enforcement of rights conferred by this Part.
- [32A. Constitutional validity of State laws not to be considered in proceedings under article 32.—*Omitted.*]
- 33. Power of Parliament to modify the rights conferred by this Part in their application to Forces, etc.
- 34. Restriction on rights conferred by this Part while martial law is in force in any area.
- 35. Legislation to give effect to the provisions of this Part.

PART IV**DIRECTIVE PRINCIPLES OF STATE POLICY**

- 36. Definition.
- 37. Application of the principles contained in this Part.
- 38. State to secure a social order for the promotion of welfare of the people.
- 39. Certain principles of policy to be followed by the State.
- 39A. Equal justice and free legal aid.

ARTICLES

40. Organisation of village panchayats.
41. Right to work, to education and to public assistance in certain cases.
42. Provision for just and humane conditions of work and maternity relief.
43. Living wage, etc., for workers.
- 43A. Participation of workers in management of Industries.
- 43B. Promotion of co-operative societies.
44. Uniform civil code for the citizens.
45. Provision for early childhood care and education to children below the age of six years.
46. Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections.
47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health.
48. Organisation of agriculture and animal husbandry.
- 48A. Protection and improvement of environment and safeguarding of forests and wild life.
49. Protection of monuments and places and objects of national importance.
50. Separation of judiciary from executive.
51. Promotion of international peace and security.

PART IVA

FUNDAMENTAL DUTIES

- 51A. Fundamental duties.

PART V

THE UNION

CHAPTER I.—THE EXECUTIVE

The President and Vice-President

52. The President of India.
53. Executive power of the Union.
54. Election of President.

ARTICLES

55. Manner of election of President.
56. Term of office of President.
57. Eligibility for re-election.
58. Qualifications for election as President.
59. Conditions of President's office.
60. Oath or affirmation by the President.
61. Procedure for impeachment of the President.
62. Time of holding election to fill vacancy in the office of President and the term of office of person elected to fill casual vacancy.
63. The Vice-President of India.
64. The Vice-President to be *ex officio* Chairman of the Council of States.
65. The Vice-President to act as President or to discharge his functions during casual vacancies in the office, or during the absence, of President.
66. Election of Vice-President.
67. Term of office of Vice-President.
68. Time of holding election to fill vacancy in the office of Vice-President and the term of office of person elected to fill casual vacancy.
69. Oath or affirmation by the Vice-President.
70. Discharge of President's functions in other contingencies.
71. Matters relating to, or connected with, the election of a President or Vice-President.
72. Power of President to grant pardons, etc., and to suspend, remit or commute sentences in certain cases.
73. Extent of executive power of the Union.
Council of Ministers
74. Council of Ministers to aid and advise President.
75. Other provisions as to Ministers.
The Attorney-General for India
76. Attorney-General for India.

ARTICLES*Conduct of Government Business*

- 77. Conduct of business of the Government of India.
- 78. Duties of Prime Minister as respects the furnishing of information to the President, etc.

CHAPTER II.—PARLIAMENT*General*

- 79. Constitution of Parliament.
- 80. Composition of the Council of States.
- 81. Composition of the House of the People.
- 82. Readjustment after each census.
- 83. Duration of Houses of Parliament.
- 84. Qualification for membership of Parliament.
- 85. Sessions of Parliament, prorogation and dissolution.
- 86. Right of President to address and send messages to Houses.
- 87. Special address by the President.
- 88. Rights of Ministers and Attorney-General as respects Houses.

Officers of Parliament

- 89. The Chairman and Deputy Chairman of the Council of States.
- 90. Vacation and resignation of, and removal from, the office of Deputy Chairman.
- 91. Power of the Deputy Chairman or other person to perform the duties of the office of, or to act as, Chairman.
- 92. The Chairman or the Deputy Chairman not to preside while a resolution for his removal from office is under consideration.
- 93. The Speaker and Deputy Speaker of the House of the People.
- 94. Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker.
- 95. Power of the Deputy Speaker or other person to perform the duties of the office of, or to act as, Speaker.

ARTICLES

96. The Speaker or the Deputy Speaker not to preside while a resolution for his removal from office is under consideration.
97. Salaries and allowances of the Chairman and Deputy Chairman and the Speaker and Deputy Speaker.
98. Secretariat of Parliament.

Conduct of Business

99. Oath or affirmation by members.
100. Voting in Houses, power of Houses to act notwithstanding vacancies and quorum.

Disqualifications of Members

101. Vacation of seats.
102. Disqualifications for membership.
103. Decision on questions as to disqualifications of members.
104. Penalty for sitting and voting before making oath or affirmation under article 99 or when not qualified or when disqualified.

Powers, Privileges and Immunities of Parliament and its Members

105. Powers, privileges, etc., of the Houses of Parliament and of the members and committees thereof.
106. Salaries and allowances of members.

Legislative Procedure

107. Provisions as to introduction and passing of Bills.
108. Joint sitting of both Houses in certain cases.
109. Special procedure in respect of Money Bills.
110. Definition of “Money Bills”.
111. Assent to Bills.

Procedure in Financial Matters

112. Annual financial statement.
113. Procedure in Parliament with respect to estimates.
114. Appropriation Bills.

ARTICLES

- 115. Supplementary, additional or excess grants.
- 116. Votes on account, votes of credit and exceptional grants.
- 117. Special provisions as to financial Bills.
Procedure Generally
 - 118. Rules of procedure.
 - 119. Regulation by law of procedure in Parliament in relation to financial business.
 - 120. Language to be used in Parliament.
 - 121. Restriction on discussion in Parliament.
 - 122. Courts not to inquire into proceedings of Parliament.
- CHAPTER III.—LEGISLATIVE POWERS OF THE PRESIDENT
 - 123. Power of President to promulgate Ordinances during recess of Parliament.
- CHAPTER IV.—THE UNION JUDICIARY
 - 124. Establishment and constitution of the Supreme Court.
 - 124A. National Judicial Appointments Commission.
 - 124B. Functions of Commission.
 - 124C. Power of Parliament to make law.
 - 125. Salaries, etc., of Judges.
 - 126. Appointment of acting Chief Justice.
 - 127. Appointment of *ad hoc* Judges.
 - 128. Attendance of retired Judges at sittings of the Supreme Court.
 - 129. Supreme Court to be a court of record.
 - 130. Seat of Supreme Court.
 - 131. Original jurisdiction of the Supreme Court.
 - [131A. Exclusive jurisdiction of the Supreme Court in regard to questions as to constitutional validity of Central laws.—*Omitted.*]
 - 132. Appellate jurisdiction of the Supreme Court in appeals from High Courts in certain cases.
 - 133. Appellate jurisdiction of the Supreme Court in appeals from High Courts in regard to civil matters.
 - 134. Appellate jurisdiction of the Supreme Court in regard to criminal matters.

ARTICLES

- 134A. Certificate for appeal to the Supreme Court.
- 135. Jurisdiction and powers of the Federal Court under existing law to be exercisable by the Supreme Court.
- 136. Special leave to appeal by the Supreme Court.
- 137. Review of judgments or orders by the Supreme Court.
- 138. Enlargement of the jurisdiction of the Supreme Court.
- 139. Conferment on the Supreme Court of powers to issue certain writs.
- 139A. Transfer of certain cases.
- 140. Ancillary powers of the Supreme Court.
- 141. Law declared by Supreme Court to be binding on all courts.
- 142. Enforcement of decrees and orders of the Supreme Court and orders as to discovery, etc.
- 143. Power of the President to consult the Supreme Court.
- 144. Civil and judicial authorities to act in aid of the Supreme Court.
- [144A. Special provisions as to disposal of questions relating to constitutional validity of laws.—*Omitted.*]
- 145. Rules of Court, etc.
- 146. Officers and servants and the expenses of the Supreme Court.
- 147. Interpretation.
 - CHAPTER V.—COMPTROLLER AND AUDITOR-GENERAL OF INDIA
- 148. Comptroller and Auditor-General of India.
- 149. Duties and powers of the Comptroller and Auditor-General.
- 150. Form of accounts of the Union and of the States.
- 151. Audit reports.

PART VI
THE STATES
CHAPTER I.—GENERAL

- 152. Definition.

ARTICLES**CHAPTER II.—THE EXECUTIVE***The Governor*

- 153. Governors of States.
- 154. Executive power of State.
- 155. Appointment of Governor.
- 156. Term of office of Governor.
- 157. Qualifications for appointment as Governor.
- 158. Conditions of Governor's office.
- 159. Oath or affirmation by the Governor.
- 160. Discharge of the functions of the Governor in certain contingencies.
- 161. Power of Governor to grant pardons, etc., and to suspend, remit or commute sentences in certain cases.
- 162. Extent of executive power of State.

Council of Ministers

- 163. Council of Ministers to aid and advise Governor.
- 164. Other provisions as to Ministers.

The Advocate-General for the State

- 165. Advocate-General for the State.
- Conduct of Government Business*
- 166. Conduct of business of the Government of a State.
 - 167. Duties of Chief Minister as respects the furnishing of information to Governor, etc.

CHAPTER III.—THE STATE LEGISLATURE*General*

- 168. Constitution of Legislatures in States.
- 169. Abolition or creation of Legislative Councils in States.
- 170. Composition of the Legislative Assemblies.

ARTICLES

171. Composition of the Legislative Councils.
172. Duration of State Legislatures.
173. Qualification for membership of the State Legislature.
174. Sessions of the State Legislature, prorogation and dissolution.
175. Right of Governor to address and send messages to the House or Houses.
176. Special address by the Governor.
177. Rights of Ministers and Advocate-General as respects the Houses.

Officers of the State Legislature

178. The Speaker and Deputy Speaker of the Legislative Assembly.
179. Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker.
180. Power of the Deputy Speaker or other person to perform the duties of the office of, or to act as, Speaker.
181. The Speaker or the Deputy Speaker not to preside while a resolution for his removal from office is under consideration.
182. The Chairman and Deputy Chairman of the Legislative Council.
183. Vacation and resignation of, and removal from, the offices of Chairman and Deputy Chairman.
184. Power of the Deputy Chairman or other person to perform the duties of the office of, or to act as, Chairman.
185. The Chairman or the Deputy Chairman not to preside while a resolution for his removal from office is under consideration.
186. Salaries and allowances of the Speaker and Deputy Speaker and the Chairman and Deputy Chairman.
187. Secretariat of State Legislature.

Conduct of Business

188. Oath or affirmation by members.
189. Voting in Houses, power of Houses to act notwithstanding vacancies and quorum.

Disqualifications of Members

190. Vacation of seats.

ARTICLES

191. Disqualifications for membership.
192. Decision on questions as to disqualifications of members.
193. Penalty for sitting and voting before making oath or affirmation under article 188 or when not qualified or when disqualified.
Powers, privileges and immunities of State Legislatures and their Members
194. Powers, privileges, etc., of the Houses of Legislatures and of the members and committees thereof.
195. Salaries and allowances of members.
Legislative Procedure
196. Provisions as to introduction and passing of Bills.
197. Restriction on powers of Legislative Council as to Bills other than Money Bills.
198. Special procedure in respect of Money Bills.
199. Definition of “Money Bills”.
200. Assent to Bills.
201. Bills reserved for consideration.
Procedure in Financial Matters
202. Annual financial statement.
203. Procedure in Legislature with respect to estimates.
204. Appropriation Bills.
205. Supplementary, additional or excess grants.
206. Votes on account, votes of credit and exceptional grants.
207. Special provisions as to financial Bills.
Procedure Generally
208. Rules of procedure.
209. Regulation by law of procedure in the Legislature of the State in relation to financial business.

ARTICLES

- 210. Language to be used in the Legislature.
- 211. Restriction on discussion in the Legislature.
- 212. Courts not to inquire into proceedings of the Legislature.
- CHAPTER IV.—LEGISLATIVE POWER OF THE GOVERNOR
- 213. Power of Governor to promulgate Ordinances during recess of Legislature.
- CHAPTER V.—THE HIGH COURTS IN THE STATES
- 214. High Courts for States.
- 215. High Courts to be courts of record.
- 216. Constitution of High Courts.
- 217. Appointment and conditions of the office of a Judge of a High Court.
- 218. Application of certain provisions relating to Supreme Court to High Courts.
- 219. Oath or affirmation by Judges of High Courts.
- 220. Restriction on practice after being a permanent Judge.
- 221. Salaries, etc., of Judges.
- 222. Transfer of a Judge from one High Court to another.
- 223. Appointment of acting Chief Justice.
- 224. Appointment of additional and acting Judges.
- 224A. Appointment of retired Judges at sittings of High Courts.
- 225. Jurisdiction of existing High Courts.
- 226. Power of High Courts to issue certain writs.
- [226A. Constitutional validity of Central laws not to be considered in proceedings under article 226.—*Omitted.*]
- 227. Power of superintendence over all courts by the High Court.
- 228. Transfer of certain cases to High Court.
- [228A. Special provisions as to disposal of questions relating to constitutional validity of State laws.—*Omitted.*]

ARTICLES

- 229. Officers and servants and the expenses of High Courts.
- 230. Extension of jurisdiction of High Courts to Union territories.
- 231. Establishment of a common High Court for two or more States.
- [232. Articles 230, 231 and 232 substituted by articles 230 and 231].
CHAPTER VI.—SUBORDINATE COURTS
- 233. Appointment of district judges.
- 233A. Validation of appointments of, and judgments, etc., delivered by, certain district judges.
- 234. Recruitment of persons other than district judges to the judicial service.
- 235. Control over subordinate courts.
- 236. Interpretation.
- 237. Application of the provisions of this Chapter to certain class or classes of magistrates.

[PART VII.—Omitted]

THE STATES IN PART B OF THE FIRST SCHEDULE

[238. *Omitted.*]

PART VIII

THE UNION TERRITORIES

- 239. Administration of Union territories.
- 239A. Creation of local Legislatures or Council of Ministers or both for certain Union territories.
- 239AA. Special provisions with respect to Delhi.
- 239AB. Provision in case of failure of constitutional machinery.
- 239B. Power of administrator to promulgate Ordinances during recess of Legislature.
- 240. Power of President to make regulations for certain Union territories.
- 241. High Courts for Union territories.
- [242. Coorg.—*Omitted.*]

PART IX

THE PANCHAYATS

- 243. Definitions.

ARTICLES

- 243A. Gram Sabha.
- 243B. Constitution of Panchayats.
- 243C. Composition of Panchayats.
- 243D. Reservation of seats.
- 243E. Duration of Panchayats, etc.
- 243F. Disqualifications for membership.
- 243G. Powers, authority and responsibilities of Panchayats.
- 243H. Powers to impose taxes by, and Funds of, the Panchayats.
- 243-I. Constitution of Finance Commission to review financial position.
- 243J. Audit of accounts of Panchayats.
- 243K. Elections to the Panchayats.
- 243L. Application to Union territories.
- 243M. Part not to apply to certain areas.
- 243N. Continuance of existing laws and Panchayats.
- 243-O. Bar to interference by courts in electoral matters.

PART IXA

THE MUNICIPALITIES

- 243P. Definitions.
- 243Q. Constitution of Municipalities.
- 243R. Composition of Municipalities.
- 243S. Constitution and composition of Wards Committees, etc.
- 243T. Reservation of seats.
- 243U. Duration of Municipalities, etc.
- 243V. Disqualifications for membership.
- 243W. Powers, authority and responsibilities of Municipalities, etc.
- 243X. Power to impose taxes by, and Funds of, the Municipalities.
- 243Y. Finance Commission.

ARTICLES

- 243Z. Audit of accounts of Municipalities.
- 243ZA. Elections to the Municipalities.
- 243ZB. Application to Union territories.
- 243ZC. Part not to apply to certain areas.
- 243ZD. Committee for district planning.
- 243ZE. Committee for Metropolitan planning.
- 243ZF. Continuance of existing laws and Municipalities.
- 243ZG. Bar to interference by courts in electoral matters.

PART IXB

THE CO-OPERATIVE SOCIETIES

- 243ZH. Definitions.
- 243Z-I. Incorporation of co-operative societies.
- 243ZJ. Number and term of members of board and its office bearers.
- 243ZK. Election of members of board.
- 243ZL. Supersession and suspension of board and interim management.
- 243ZM. Audit of accounts of co-operative societies.
- 243ZN. Convening of general body meetings.
- 243Z-O. Right of a member to get information.
- 243ZP. Returns.
- 243ZQ. Offences and penalties.
- 243ZR. Application to multi-State co-operative societies.
- 243ZS. Application to Union territories.
- 243ZT. Continuance of existing laws.

PART X

THE SCHEDULED AND TRIBAL AREAS

- 244. Administration of Scheduled Areas and Tribal Areas.
- 244A. Formation of an autonomous State comprising certain tribal areas in Assam and creation of local Legislature or Council of Ministers or both therefor.

ARTICLES

PART XI**RELATIONS BETWEEN THE UNION AND THE
STATES****CHAPTER I.—LEGISLATIVE RELATIONS***Distribution of Legislative Powers*

- 245. Extent of laws made by Parliament and by the Legislatures of States.
- 246. Subject-matter of laws made by Parliament and by the Legislatures of States.
- 246A. Special provision with respect to goods and services tax.
- 247. Power of Parliament to provide for the establishment of certain additional courts.
- 248. Residuary powers of legislation.
- 249. Power of Parliament to legislate with respect to a matter in the State List in the national interest.
- 250. Power of Parliament to legislate with respect to any matter in the State List if a Proclamation of Emergency is in operation.
- 251. Inconsistency between laws made by Parliament under articles 249 and 250 and laws made by the Legislatures of States.
- 252. Power of Parliament to legislate for two or more States by consent and adoption of such legislation by any other State.
- 253. Legislation for giving effect to international agreements.
- 254. Inconsistency between laws made by Parliament and laws made by the Legislatures of States.
- 255. Requirements as to recommendations and previous sanctions to be regarded as matters of procedure only.

CHAPTER II.—ADMINISTRATIVE RELATIONS*General*

- 256. Obligation of States and the Union.
- 257. Control of the Union over States in certain cases.
- [257A. Assistance to States by deployment of armed forces or other forces of the Union.—*Omitted.*]
- 258. Power of the Union to confer powers, etc., on States in certain cases.

ARTICLES

- 258A. Power of the States to entrust functions to the Union.
- [259. Armed Forces in States in Part B of the First Schedule.—
Omitted.]
260. Jurisdiction of the Union in relation to territories outside India.
261. Public acts, records and judicial proceedings.

Disputes relating to Waters
262. Adjudication of disputes relating to waters of inter-State rivers or river valleys.

Co-ordination between States
263. Provisions with respect to an inter-State Council.
- PART XII**
- FINANCE, PROPERTY, CONTRACTS AND SUITS
- CHAPTER I.—FINANCE
- General*
264. Interpretation.
265. Taxes not to be imposed save by authority of law.
266. Consolidated Funds and public accounts of India and of the States.
267. Contingency Fund.

Distribution of Revenues between the Union and the States
268. Duties levied by the Union but collected and appropriated by the States.
- [268A. Service tax levied by Union and collected by the Union and the States.—*Omitted.*]
269. Taxes levied and collected by the Union but assigned to the States.
- 269A. Levy and collection of goods and services tax in course of inter-State trade or commerce.
270. Taxes levied and distributed between the Union and the States.
271. Surcharge on certain duties and taxes for purposes of the Union.
- [272. Taxes which are levied and collected by the Union and may be distributed between the Union and the States.—*Omitted.*]
273. Grants in lieu of export duty on jute and jute products.
274. Prior recommendation of President required to Bills affecting taxation in which States are interested.

ARTICLES

- 275. Grants from the Union to certain States.
- 276. Taxes on professions, trades, callings and employments.
- 277. Savings.
- [278. Agreement with States in Part B of the First Schedule with regard to certain financial matters.—*Omitted.*]
- 279. Calculation of “net proceeds”, etc.
- 279A. Goods and Services Tax Council.
- 280. Finance Commission.
- 281. Recommendations of the Finance Commission.

Miscellaneous Financial Provisions

- 282. Expenditure defrayable by the Union or a State out of its revenues.
- 283. Custody, etc., of Consolidated Funds, Contingency Funds and moneys credited to the public accounts.
- 284. Custody of suitors’ deposits and other moneys received by public servants and courts.
- 285. Exemption of property of the Union from State taxation.
- 286. Restrictions as to imposition of tax on the sale or purchase of goods.
- 287. Exemption from taxes on electricity.
- 288. Exemption from taxation by States in respect of water or electricity in certain cases.
- 289. Exemption of property and income of a State from Union taxation.
- 290. Adjustment in respect of certain expenses and pensions.
- 290A. Annual payment to certain Devaswom Funds.
- [291. Privy purse sums of Rulers.—*Omitted.*]

CHAPTER II.—BORROWING

- 292. Borrowing by the Government of India.
- 293. Borrowing by States.

ARTICLES**CHAPTER III.— PROPERTY, CONTRACTS, RIGHTS, LIABILITIES,
OBLIGATIONS AND SUITS**

- 294. Succession to property, assets, rights, liabilities and obligations in certain cases.
- 295. Succession to property, assets, rights, liabilities and obligations in other cases.
- 296. Property accruing by escheat or lapse or as *bona vacantia*.
- 297. Things of value within territorial waters or continental shelf and resources of the exclusive economic zone to vest in the Union.
- 298. Power to carry on trade, etc.
- 299. Contracts.
- 300. Suits and proceedings.

CHAPTER IV.—RIGHT TO PROPERTY

- 300A. Persons not to be deprived of property save by authority of law.

PART XIII**TRADE, COMMERCE AND INTERCOURSE
WITHIN THE TERRITORY OF INDIA**

- 301. Freedom of trade, commerce and intercourse.
- 302. Power of Parliament to impose restrictions on trade, commerce and intercourse.
- 303. Restrictions on the legislative powers of the Union and of the States with regard to trade and commerce.
- 304. Restrictions on trade, commerce and intercourse among States.
- 305. Saving of existing laws and laws providing for State monopolies.
- [306. Power of certain States in Part B of the First Schedule to impose restrictions on trade and commerce.—*Omitted*]
- 307. Appointment of authority for carrying out the purposes of articles 301 to 304.

PART XIV**SERVICES UNDER THE UNION AND THE STATES****CHAPTER I.—SERVICES**

- 308. Interpretation.

ARTICLES

- 309. Recruitment and conditions of service of persons serving the Union or a State.
- 310. Tenure of office of persons serving the Union or a State.
- 311. Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State.
- 312. All-India services.
- 312A. Power of Parliament to vary or revoke conditions of service of officers of certain services.
- 313. Transitional provisions.
- [314. Provision for protection of existing officers of certain services.—*Omitted.*]

CHAPTER II.—PUBLIC SERVICE COMMISSIONS

- 315. Public Service Commissions for the Union and for the States.
- 316. Appointment and term of office of members.
- 317. Removal and suspension of a member of a Public Service Commission.
- 318. Power to make regulations as to conditions of service of members and staff of the Commission.
- 319. Prohibition as to the holding of offices by members of Commission on ceasing to be such members.
- 320. Functions of Public Service Commissions.
- 321. Power to extend functions of Public Service Commissions.
- 322. Expenses of Public Service Commissions.
- 323. Reports of Public Service Commissions.

**PART XIVA
TRIBUNALS**

- 323A. Administrative tribunals.
- 323B. Tribunals for other matters.

ARTICLES

PART XV
ELECTIONS

- 324. Superintendence, direction and control of elections to be vested in an Election Commission.
- 325. No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex.
- 326. Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of adult suffrage.
- 327. Power of Parliament to make provision with respect to elections to Legislatures.
- 328. Power of Legislature of a State to make provision with respect to elections to such Legislature.
- 329. Bar to interference by courts in electoral matters.
- [329A. Special provision as to elections to Parliament in the case of Prime Minister and Speaker.—*Omitted.*]

PART XVI
SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES

- 330. Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People.
- 330A. Reservation of seats for women in the House of the People.
- 331. Representation of the Anglo-Indian community in the House of the People.
- 332. Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States.
- 332A. Reservation of seats for women in the Legislative Assemblies of the States.
- 333. Representation of the Anglo-Indian community in the Legislative Assemblies of the States.
- 334. Reservation of seats and special representation to cease after certain period.
- 334A. Reservation of seats for women take effect.
- 335. Claims of Scheduled Castes and Scheduled Tribes to services and posts.

ARTICLES

- 336. Special provision for Anglo-Indian community in certain services.
- 337. Special provision with respect to educational grants for the benefit of Anglo-Indian Community.
- 338. National Commission for Scheduled Castes.
- 338A. National Commission for Scheduled Tribes.
- 338B. National Commission for Backward Classes.
- 339. Control of the Union over the administration of Scheduled Areas and the welfare of Scheduled Tribes.
- 340. Appointment of a Commission to investigate the conditions of backward classes.
- 341. Scheduled Castes.
- 342. Scheduled Tribes.
- 342A. Socially and educationally backward classes.

PART XVII

OFFICIAL LANGUAGE

CHAPTER I.—LANGUAGE OF THE UNION

- 343. Official language of the Union.
- 344. Commission and Committee of Parliament on official language.

CHAPTER II.—REGIONAL LANGUAGES

- 345. Official language or languages of a State.
- 346. Official language for communication between one State and another or between a State and the Union.
- 347. Special provision relating to language spoken by a section of the population of a State.

**CHAPTER III.—LANGUAGE OF THE SUPREME COURT,
HIGH COURTS, ETC.**

- 348. Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc.
- 349. Special procedure for enactment of certain laws relating to language.

ARTICLES

CHAPTER IV.—SPECIAL DIRECTIVES

- 350. Language to be used in representations for redress of grievances.
- 350A. Facilities for instruction in mother-tongue at primary stage.
- 350B. Special Officer for linguistic minorities.
- 351. Directive for development of the Hindi language.

**PART XVIII
EMERGENCY PROVISIONS**

- 352. Proclamation of Emergency.
- 353. Effect of Proclamation of Emergency.
- 354. Application of provisions relating to distribution of revenues while a Proclamation of Emergency is in operation.
- 355. Duty of the Union to protect States against external aggression and internal disturbance.
- 356. Provisions in case of failure of constitutional machinery in States.
- 357. Exercise of legislative powers under Proclamation issued under article 356.
- 358. Suspension of provisions of article 19 during emergencies.
- 359. Suspension of the enforcement of the rights conferred by Part III during emergencies.
- [359A. Application of this Part to the State of Punjab.—*Omitted.*]
- 360. Provisions as to financial emergency.

**PART XIX
MISCELLANEOUS**

- 361. Protection of President and Governors and Rajpramukhs.
- 361A. Protection of publication of proceedings of Parliament and State Legislatures.
- 361B. Disqualification for appointment on remunerative political post.
- [362. Rights and privileges of Rulers of Indian States.—*Omitted.*]
- 363. Bar to interference by courts in disputes arising out of certain treaties, agreements, etc.
- 363A. Recognition granted to Rulers of Indian States to cease and privy purses to be abolished.

ARTICLES

- 364. Special provisions as to major ports and aerodromes.
- 365. Effect of failure to comply with, or to give effect to, directions given by the Union.
- 366. Definitions.
- 367. Interpretation.

PART XX

AMENDMENT OF THE CONSTITUTION

- 368. Power of Parliament to amend the Constitution and procedure therefor.

PART XXI

**TEMPORARY, TRANSITIONAL AND
SPECIAL PROVISIONS**

- 369. Temporary power to Parliament to make laws with respect to certain matters in the State List as if they were matters in the Concurrent List.
- 370. Temporary provisions with respect to the State of Jammu and Kashmir.
- 371. Special provision with respect to the States of Maharashtra and Gujarat.
- 371A. Special provision with respect to the State of Nagaland.
- 371B. Special provision with respect to the State of Assam.
- 371C. Special provision with respect to the State of Manipur.
- 371D. Special provisions with respect to the State of Andhra Pradesh or the State of Telangana.
- 371E. Establishment of Central University in Andhra Pradesh.
- 371F. Special provisions with respect to the State of Sikkim.
- 371G. Special provision with respect to the State of Mizoram.
- 371H. Special provision with respect to the State of Arunachal Pradesh.
- 371-I. Special provision with respect to the State of Goa.
- 371J. Special provisions with respect to the State of Karnataka.
- 372. Continuance in force of existing laws and their adaptation.
- 372A. Power of the President to adapt laws.

ARTICLES

- 373. Power of President to make order in respect of persons under preventive detention in certain cases.
- 374. Provisions as to Judges of the Federal Court and proceedings pending in the Federal Court or before His Majesty in Council.
- 375. Courts, authorities and officers to continue to function subject to the provisions of the Constitution.
- 376. Provisions as to Judges of High Courts.
- 377. Provisions as to Comptroller and Auditor-General of India.
- 378. Provisions as to Public Service Commissions.
- 378A. Special provision as to duration of Andhra Pradesh Legislative Assembly.
- [379. Provisions as to provisional Parliament and the Speaker and Deputy Speaker thereof.—*Omitted.*]
- [380. Provision as to President.—*Omitted.*]
- [381. Council of Ministers of the President.—*Omitted.*]
- [382. Provisions as to provisional Legislatures for States in Part A of the First Schedule. —*Omitted.*]
- [383. Provision as to Governors of Provinces. —*Omitted.*]
- [384. Council of Ministers of the Governors.—*Omitted.*]
- [385. Provision as to provisional Legislatures in States in Part B of the First Schedule.—*Omitted.*]
- [386. Council of Ministers for States in Part B of the First Schedule.
—*Omitted.*]
- [387. Special provision as to determination of population for the purposes of certain elections.—*Omitted.*]
- [388. Provisions as to the filling of casual vacancies in the provisional Parliament and provisional Legislatures of the States. —*Omitted.*]
- [389. Provision as to Bills pending in the Dominion Legislatures and in the Legislatures of Provinces and Indian States.—*Omitted.*]

ARTICLES

- [390. Money received or raised or expenditure incurred between the commencement of the Constitution and the 31st day of March, 1950. —*Omitted.*]
- [391. Power of the President to amend the First and Fourth Schedules in certain contingencies.—*Omitted.*]
- 392. Power of the President to remove difficulties.

PART XXII

SHORT TITLE, COMMENCEMENT,
AUTHORITATIVE TEXT
IN HINDI AND REPEALS

- 393. Short title.
- 394. Commencement.
- 394A. Authoritative text in the Hindi language.
- 395. Repeals.

SCHEDULES

FIRST SCHEDULE

- I. —The States.
- II. —The Union territories.

SECOND SCHEDULE

- PART A—Provisions as to the President and the Governors of States.
- PART B—[Omitted.]
- PART C—Provisions as to the Speaker and the Deputy Speaker of the House of the People and the Chairman and the Deputy Chairman of the Council of States and the Speaker and the Deputy Speaker of the Legislative Assembly and the Chairman and the Deputy Chairman of the Legislative Council of a State.
- PART D— Provisions as to the Judges of the Supreme Court and of the High Courts.
- PART E— Provisions as to the Comptroller and Auditor-General of India.

THIRD SCHEDULE— Forms of Oaths or Affirmations.

ARTICLES

FOURTH SCHEDULE—Allocation of seats in the Council of States.

FIFTH SCHEDULE—

Provisions as to the Administration and Control of Scheduled Areas and Scheduled Tribes

PART A—General.

PART B—Administration and Control of Scheduled Areas and Scheduled Tribes.

PART C— Scheduled Areas.

PART D—Amendment of the Schedule.

SIXTH SCHEDEULE—

Provisions as to the Administration of Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram.

SEVENTH SCHEDEULE—

List I— Union List.

List II— State List.

List III— Concurrent List.

EIGHTH SCHEDEULE— Languages.

NINTH SCHEDEULE—Validation of certain Acts and Regulations.

TENTH SCHEDEULE— Provisions as to disqualification on ground of defection.

ELEVENTH SCHEDEULE—Powers, authority and responsibilities of Panchayats.

TWELFTH SCHEDEULE—Powers, authority and responsibilities of Municipalities, etc.

APPENDICES

APPENDIX I.—The Constitution (One Hundredth Amendment) Act, 2015.

APPENDIX II.—The Constitution (Application to Jammu and Kashmir) Order, 2019.

APPENDIX III.— Declaration under article 370(3) of the Constitution.

THE CONSTITUTION OF INDIA

PREAMBLE

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a ¹[SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC] and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity;

and to promote among them all

FRATERNITY assuring the dignity of the individual and the ²[unity and integrity of the Nation];

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

-
1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s.2, for "SOVEREIGN DEMOCRATIC REPUBLIC" (w.e.f. 3-1-1977).
 2. Subs. by s. 2, *ibid.*, for "Unity of the Nation" (w.e.f. 3-1-1977).

PART I

THE UNION AND ITS TERRITORY

1. Name and territory of the Union.—(1) India, that is Bharat, shall be a Union of States.

¹[(2) The States and the territories thereof shall be as specified in the First Schedule.]

(3) The territory of India shall comprise—

(a) the territories of the States;

²[(b) the Union territories specified in the First Schedule; and]

(c) such other territories as may be acquired.

2. Admission or establishment of new States.—Parliament may by law admit into the Union, or establish, new States on such terms and conditions as it thinks fit.

³[**2A.** [*Sikkim to be associated with the Union.*].—Omitted by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 5 (w.e.f. 26-4-1975).]

3. Formation of new States and alteration of areas, boundaries or names of existing States.—Parliament may by law—

(a) form a new State by separation of territory from any State or by uniting two or more States or parts of States or by uniting any territory to a part of any State;

(b) increase the area of any State;

(c) diminish the area of any State;

(d) alter the boundaries of any State;

(e) alter the name of any State:

1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 2, for cl. (2) (w.e.f. 1-11-1956).

2. Subs. by s. 2 *ibid.* for sub-clause (b) (w.e.f. 1-11-1956).

3. Ins. by the Constitution (Thirty-fifth Amendment) Act, 1974, s. 2 (w.e.f. 1-3-1975).

THE CONSTITUTION OF INDIA

(Part I.—Union and its territory)

¹[Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless, where the proposal contained in the Bill affects the area, boundaries or name of any of the States ^{2***}, the Bill has been referred by the President to the Legislature of that State for expressing its views thereon within such period as may be specified in the reference or within such further period as the President may allow and the period so specified or allowed has expired.]

³[*Explanation I.*—In this article, in clauses (a) to (e), “State” includes a Union territory, but in the proviso, “State” does not include a Union territory.]

Explanation II.—The power conferred on Parliament by clause (a) includes the power to form a new State or Union territory by uniting a part of any State or Union territory to any other State or Union territory.]

4. Laws made under articles 2 and 3 to provide for the amendment of the First and the Fourth Schedules and supplemental, incidental and consequential matters.—(1) Any law referred to in article 2 or article 3 shall contain such provisions for the amendment of the First Schedule and the Fourth Schedule as may be necessary to give effect to the provisions of the law and may also contain such supplemental, incidental and consequential provisions (including provisions as to representation in Parliament and in the Legislature or Legislatures of the State or States affected by such law) as Parliament may deem necessary.

(2) No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 368.

-
1. Subs. by the Constitution (Fifth Amendment) Act, 1955, s. 2, for the proviso (w.e.f. 24-12-1955).
 2. The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).
 3. Ins. by the Constitution (Eighteenth Amendment) Act, 1966, s. 2 (w.e.f. 27-8-1966).

PART II

CITIZENSHIP

5. Citizenship at the commencement of the Constitution.—At the commencement of this Constitution, every person who has his domicile in the territory of India and—

- (a) who was born in the territory of India; or
- (b) either of whose parents was born in the territory of India; or
- (c) who has been ordinarily resident in the territory of India for not less than five years immediately preceding such commencement, shall be a citizen of India.

6. Rights of citizenship of certain persons who have migrated to India from Pakistan.—Notwithstanding anything in article 5, a person who has migrated to the territory of India from the territory now included in Pakistan shall be deemed to be a citizen of India at the commencement of this Constitution if—

- (a) he or either of his parents or any of his grand-parents was born in India as defined in the Government of India Act, 1935 (as originally enacted); and

- (b)(i) in the case where such person has so migrated before the nineteenth day of July, 1948, he has been ordinarily resident in the territory of India since the date of his migration, or

- (ii) in the case where such person has so migrated on or after the nineteenth day of July, 1948, he has been registered as a citizen of India by an officer appointed in that behalf by the Government of the Dominion of India on an application made by him therefor to such officer before the commencement of this Constitution in the form and manner prescribed by that Government:

Provided that no person shall be so registered unless he has been resident in the territory of India for at least six months immediately preceding the date of his application.

7. Rights of citizenship of certain migrants to Pakistan.—Notwithstanding anything in articles 5 and 6, a person who has after the first day of March, 1947, migrated from the territory of India to the territory now included in Pakistan shall not be deemed to be a citizen of India:

THE CONSTITUTION OF INDIA

(Part II.—Citizenship)

Provided that nothing in this article shall apply to a person who, after having so migrated to the territory now included in Pakistan, has returned to the territory of India under a permit for resettlement or permanent return issued by or under the authority of any law and every such person shall for the purposes of clause (b) of article 6 be deemed to have migrated to the territory of India after the nineteenth day of July, 1948.

8. Rights of citizenship of certain persons of Indian origin residing outside India.—Notwithstanding anything in article 5, any person who or either of whose parents or any of whose grand-parents was born in India as defined in the Government of India Act, 1935 (as originally enacted), and who is ordinarily residing in any country outside India as so defined shall be deemed to be a citizen of India if he has been registered as a citizen of India by the diplomatic or consular representative of India in the country where he is for the time being residing on an application made by him therefor to such diplomatic or consular representative, whether before or after the commencement of this Constitution, in the form and manner prescribed by the Government of the Dominion of India or the Government of India.

9. Persons voluntarily acquiring citizenship of a foreign State not to be citizens.—No person shall be a citizen of India by virtue of article 5, or be deemed to be a citizen of India by virtue of article 6 or article 8, if he has voluntarily acquired the citizenship of any foreign State.

10. Continuance of the rights of citizenship.—Every person who is or is deemed to be a citizen of India under any of the foregoing provisions of this Part shall, subject to the provisions of any law that may be made by Parliament, continue to be such citizen.

11. Parliament to regulate the right of citizenship by law.—Nothing in the foregoing provisions of this Part shall derogate from the power of Parliament to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship.

PART III
FUNDAMENTAL RIGHTS
General

12. Definition.—In this Part, unless the context otherwise requires, “the State” includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

13. Laws inconsistent with or in derogation of the fundamental rights.—(1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.

(2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.

(3) In this article, unless the context otherwise requires,—

(a) “law” includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law;

(b) “laws in force” includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas.

¹[(4) Nothing in this article shall apply to any amendment of this Constitution made under article 368.]

Right to Equality

14. Equality before law.—The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.—(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to—

1. Ins. by the Constitution (Twenty-fourth Amendment) Act, 1971, s. 2 (w.e.f. 5-11-1971).

THE CONSTITUTION OF INDIA

(Part III.—Fundamental Rights)

(a) access to shops, public restaurants, hotels and places of public entertainment; or

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

¹[(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.]

²[(5) Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30.]

³[(6) Nothing in this article or sub-clause (g) of clause (1) of article 19 or clause (2) of article 29 shall prevent the State from making,—

(a) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5); and

(b) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5) in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30, which in the case of reservation would be in addition to the existing reservations and subject to a maximum of ten per cent. of the total seats in each category.

1. Added by the Constitution (First Amendment) Act, 1951, s. 2 (w.e.f. 18-6-1951).

2. Ins. by the Constitution (Ninety-third Amendment) Act, 2005, s. 2 (w.e.f. 20-1-2006).

3. Ins. by the Constitution (One Hundred and Third Amendment) Act, 2019, s. 2 (w.e.f. 14-1-2019).

THE CONSTITUTION OF INDIA

(Part III.—Fundamental Rights)

Explanation.—For the purposes of this article and article 16, "economically weaker sections" shall be such as may be notified by the State from time to time on the basis of family income and other indicators of economic disadvantage.]

16. Equality of opportunity in matters of public employment.—(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office¹[under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory] prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

²[(4A) Nothing in this article shall prevent the State from making any provision for reservation³[in matters of promotion, with consequential seniority, to any class] or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.]

⁴[(4B) Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent. reservation on total number of vacancies of that year.]

-
1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch., for "under any State specified in the First Schedule or any local or other authority within its territory, any requirement as to residence within that State" (w.e.f. 1-11-1956).
 2. Ins. by the Constitution (Seventy-seventh Amendment) Act, 1995, s. 2 (w.e.f. 17-6-1995).
 3. Subs. by the Constitution (Eighty-fifth Amendment) Act, 2001, s. 2, for certain words (retrospectively) (w.e.f. 17-6-1995).
 4. Ins. by the Constitution (Eighty-first Amendment) Act, 2000, s. 2 (w.e.f. 9-6-2000).

THE CONSTITUTION OF INDIA

(Part III.—Fundamental Rights)

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

¹[(6) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any economically weaker sections of citizens other than the classes mentioned in clause (4), in addition to the existing reservation and subject to a maximum of ten per cent. of the posts in each category.]

17. Abolition of Untouchability.—“Untouchability” is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of “Untouchability” shall be an offence punishable in accordance with law.

18. Abolition of titles.—(1) No title, not being a military or academic distinction, shall be conferred by the State.

(2) No citizen of India shall accept any title from any foreign State.

(3) No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State.

(4) No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, or office of any kind from or under any foreign State.

Right to Freedom

19. Protection of certain rights regarding freedom of speech, etc.—

(1) All citizens shall have the right—

- (a) to freedom of speech and expression;
- (b) to assemble peaceably and without arms;
- (c) to form associations or unions ²[or co-operative societies];
- (d) to move freely throughout the territory of India;

1. Ins. by the Constitution (One Hundred and Third Amendment) Act, 2019, s. 3 (w.e.f. 14-1-2019).

2. Ins. by the Constitution (Ninety-seventh Amendment) Act, 2011, s. 2 (w.e.f. 8-2-2012).

THE CONSTITUTION OF INDIA

(Part III.—Fundamental Rights)

(e) to reside and settle in any part of the territory of India; ¹[and]

²[(f)* * * * *]

(g) to practise any profession, or to carry on any occupation, trade or business.

³[(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of ⁴[the sovereignty and integrity of India], the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.]

(3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of ⁴[the sovereignty and integrity of India or] public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(4) Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of ⁴[the sovereignty and integrity of India or] public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(5) Nothing in ⁵[sub-clauses (d) and (e)] of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.

1. Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 2 (w.e.f. 20-6-1979).

2. Sub-clause (f) omitted by s.2, *ibid.* (w.e.f. 20-6-1979).

3. Subs. by the Constitution (First Amendment) Act, 1951, s. 3, for cl. (2) (with retrospective effect).

4. Ins. by the Constitution (Sixteenth Amendment) Act, 1963, s. 2 (w.e.f. 5-10-1963).

5. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 2, for "sub-clauses (d), (e) and (f)" (w.e.f. 20-6-1979).

THE CONSTITUTION OF INDIA

(Part III.—Fundamental Rights)

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular,
¹[nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,—

(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business; or

(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.]

20. Protection in respect of conviction for offences.—(1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the Act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

(2) No person shall be prosecuted and punished for the same offence more than once.

(3) No person accused of any offence shall be compelled to be a witness against himself.

21. Protection of life and personal liberty.—No person shall be deprived of his life or personal liberty except according to procedure established by law.

²[21A. Right to education.]—The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.]

22. Protection against arrest and detention in certain cases.—(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.

1. Subs. by the Constitution (First Amendment) Act, 1951, s. 3, for certain words (w.e.f. 18-6-1951).

2 Ins. by the Constitution (Eighty-sixth Amendment) Act, 2002, s. 2 (w.e.f. 1-4-2010).

THE CONSTITUTION OF INDIA

(Part III.—Fundamental Rights)

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

(3) Nothing in clauses (1) and (2) shall apply—

(a) to any person who for the time being is an enemy alien; or

(b) to any person who is arrested or detained under any law providing for preventive detention.

^{*}(4) No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless—

(a) an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention:

^{*} Cl. (4) shall stand substituted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 3 (date yet to be notified) as—

"(4) No law providing for preventive detention shall authorise the detention of a person for a longer period than two months unless an Advisory Board constituted in accordance with the recommendations of the Chief Justice of the appropriate High Court has reported before the expiration of the said period of two months that there is in its opinion sufficient cause for such detention:

Provided that an Advisory Board shall consist of a Chairman and not less than two other members, and the Chairman shall be a serving Judge of the appropriate High Court and the other members shall be serving or retired Judges of any High Court :

Provided further that nothing in this clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (a) of clause (7).

Explanation.—In this clause, "appropriate High Court" means,—

(i) in the case of the detention of a person in pursuance of an order of detention made by the Government of India or an officer or authority subordinate to that Government, the High Court for the Union territory of Delhi;

(ii) in the case of the detention of a person in pursuance of an order of detention made by the Government of any State (other than a Union territory), the High Court for that State; and

(iii) in the case of the detention of a person in pursuance of an order of detention made by the administrator of a Union territory or an officer or authority subordinate to such administrator, such High Court as may be specified by or under any law made by Parliament in this behalf".

THE CONSTITUTION OF INDIA

(Part III.—Fundamental Rights)

Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (b) of clause (7); or

(b) such person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of clause (7).

(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.

(6) Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority considers to be against the public interest to disclose.

(7) Parliament may by law prescribe—

*(a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4);

**(b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and

(c) the procedure to be followed by an Advisory Board in an inquiry under *sub-clause (a) of clause (4).

* Sub-clause (a) shall stand omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 3(b)(i) (date to be notified).

** Sub-clause (b) shall stand re-lettered as sub-clause (a) by s. 3(b)(ii), *ibid.* (date to be notified).

*** Sub-clause (c) shall stand re-lettered as sub-clause (b) by s. 3(b)(iii), *ibid.* (date to be notified).

**** Sub-clause (a) of clause (4) shall stand substituted as "clause (4)" by s. 3(b)(iii), *ibid.* (date to be notified).

THE CONSTITUTION OF INDIA

(Part III.—Fundamental Rights)

*Right against Exploitation***23. Prohibition of traffic in human beings and forced labour.**—(1)

Traffic in human beings and *begar* and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

24. Prohibition of employment of children in factories, etc.—No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

Right to Freedom of Religion

25. Freedom of conscience and free profession, practice and propagation of religion.—(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

Explanation I.—The wearing and carrying of *kirpans* shall be deemed to be included in the profession of the Sikh religion.

Explanation II.—In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

26. Freedom to manage religious affairs.—Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—

(a) to establish and maintain institutions for religious and charitable purposes;

THE CONSTITUTION OF INDIA

(Part III.—Fundamental Rights)

- (b) to manage its own affairs in matters of religion;
- (c) to own and acquire movable and immovable property; and
- (d) to administer such property in accordance with law.

27. Freedom as to payment of taxes for promotion of any particular religion.—No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

28. Freedom as to attendance at religious instruction or religious worship in certain educational institutions.—(1) No religious instruction shall be provided in any educational institution wholly maintained out of State funds.

(2) Nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution.

(3) No person attending any educational institution recognised by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto.

Cultural and Educational Rights

29. Protection of interests of minorities.—(1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

30. Right of minorities to establish and administer educational institutions.—(1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

THE CONSTITUTION OF INDIA

(Part III.—Fundamental Rights)

¹[(1A) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.]

(2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

2* * * *

31. [Compulsory acquisition of property].—Omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 6 (w.e.f. 20-6-1979).

³[Saving of Certain Laws]

⁴[31A. Saving of laws providing for acquisition of estates, etc.—

⁵[(1) Notwithstanding anything contained in article 13, no law providing for—

(a) the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights; or

(b) the taking over of the management of any property by the State for a limited period either in the public interest or in order to secure the proper management of the property; or

(c) the amalgamation of two or more corporations either in the public interest or in order to secure the proper management of any of the corporations; or

(d) the extinguishment or modification of any rights of managing agents, secretaries and treasurers, managing directors, directors or managers of corporations, or of any voting rights of shareholders thereof; or

1. Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 4 (w.e.f. 20-6-1979).

2. Sub-heading "Right to Property" omitted by s. 5, *ibid.* (w.e.f. 20-6-1979).

3. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 3 (w.e.f. 3-1-1977).

4. Ins. by the Constitution (First Amendment) Act, 1951, s. 4, (with retrospective effect).

5. Subs. by the Constitution (Fourth Amendment) Act, 1955, s. 3, for cl. (1) (with retrospective effect).

THE CONSTITUTION OF INDIA

(Part III.—Fundamental Rights)

(e) the extinguishment or modification of any rights accruing by virtue of any agreement, lease or licence for the purpose of searching for, or winning, any mineral or mineral oil, or the premature termination or cancellation of any such agreement, lease or licence,

shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by¹[article 14 or article 19]:

Provided that where such law is a law made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent:]

²[Provided further that where any law makes any provision for the acquisition by the State of any estate and where any land comprised therein is held by a person under his personal cultivation, it shall not be lawful for the State to acquire any portion of such land as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto, unless the law relating to the acquisition of such land, building or structure, provides for payment of compensation at a rate which shall not be less than the market value thereof.]

(2) In this article,—

³[(a) the expression “estate” shall, in relation to any local area, have the same meaning as that expression or its local equivalent has in the existing law relating to land tenures in force in that area and shall also include—

(i) any *jagir*, *inam* or *muafī* or other similar grant and in the States of⁴[Tamil Nadu] and Kerala, any *janmam* right;

(ii) any land held under ryotwari settlement;

(iii) any land held or let for purposes of agriculture or for purposes ancillary thereto, including waste land, forest land, land for pasture or sites of buildings and other structures occupied by cultivators of land, agricultural labourers and village artisans;]

1. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 7, for "article 14, article 19 or article 31" (w.e.f. 20-6-1979).

2. Ins. by the Constitution (Seventeenth Amendment) Act, 1964, s. 2(i) (w.e.f. 20-6-1964).

3. Subs. by s.2(ii), *ibid.*, for sub-clause (a) (with retrospective effect).

4. Subs. by the Madras State (Alteration of Name) Act, 1968 (53 of 1968), s. 4, for "Madras" (w.e.f. 14-1-1969).

THE CONSTITUTION OF INDIA

(Part III.—Fundamental Rights)

(b) the expression “rights”, in relation to an estate, shall include any rights vesting in a proprietor, sub-proprietor, under-proprietor, tenure-holder, ¹[*raiyat, under-raiyat*] or other intermediary and any rights or privileges in respect of land revenue.]

²[31B. Validation of certain Acts and Regulations.]—Without prejudice to the generality of the provisions contained in article 31A, none of the Acts and Regulations specified in the Ninth Schedule nor any of the provisions thereof shall be deemed to be void, or ever to have become void, on the ground that such Act, Regulation or provision is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this Part, and notwithstanding any judgment, decree or order of any court or Tribunal to the contrary, each of the said Acts and Regulations shall, subject to the power of any competent Legislature to repeal or amend it, continue in force.]

³[31C. Saving of laws giving effect to certain directive principles.]—Notwithstanding anything contained in article 13, no law giving effect to the policy of the State towards securing ⁴[all or any of the principles laid down in Part IV] shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by ⁵[article 14 or article 19;] ⁶[and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy]:

Provided that where such law is made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent.]

⁷31D. [Saving of laws in respect of anti-national activities].—Omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 2 (w.e.f. 13-4-1978).

-
1. Ins. by the Constitution (Fourth Amendment) Act, 1955, s. 3 (with retrospective effect).
 2. Ins. by the Constitution (First Amendment) Act, 1951, s. 5 (w.e.f. 18-6-1951).
 3. Ins. by the Constitution (Twenty-fifth Amendment) Act, 1971, s. 3 (w.e.f. 20-4-1972).
 4. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 4, for “the principles specified in clause (b) or clause (c) of article 39” (w.e.f. 3-1-1977). Section 4 has been declared invalid by the Supreme Court in *Minerva Mills Ltd. and Others Vs Union of India and Others*, AIR 1980 SC 1789.
 5. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 8, for “article 14, article 19 or article 31” (w.e.f. 20-6-1979).
 6. The words in italics struck down by the Supreme Court in *Kesavananda Bharati vs. State of Kerala*, AIR 1973, SC 1461.
 7. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 5 (w.e.f. 03-01-1977).

THE CONSTITUTION OF INDIA

(Part III.—Fundamental Rights)

Right to Constitutional Remedies

32. Remedies for enforcement of rights conferred by this Part.—(1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.

(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.

(3) Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2).

(4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

¹32A. [Constitutional validity of State laws not to be considered in proceedings under article 32].—Omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 3 (w.e.f. 13-4-1978).

²[33. Power of Parliament to modify the rights conferred by this Part in their application to Forces, etc.]—Parliament may, by law, determine to what extent any of the rights conferred by this Part shall, in their application to,—

(a) the members of the Armed Forces; or

(b) the members of the Forces charged with the maintenance of public order; or

(c) persons employed in any bureau or other organisation established by the State for purposes of intelligence or counter intelligence; or

(d) person employed in, or in connection with, the telecommunication systems set up for the purposes of any Force, bureau or organisation referred to in clauses (a) to (c),

be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them.]

1. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 6 (w.e.f. 1-2-1977).

2. Subs. by the Constitution (Fiftieth Amendment) Act, 1984, s. 2, for art. 33 (w.e.f. 11-9-1984).

34. Restriction on rights conferred by this Part while martial law is in force in any area.—Notwithstanding anything in the foregoing provisions of this Part, Parliament may by law indemnify any person in the service of the Union or of a State or any other person in respect of any act done by him in connection with the maintenance or restoration of order in any area within the territory of India where martial law was in force or validate any sentence passed, punishment inflicted, forfeiture ordered or other act done under martial law in such area.

35. Legislation to give effect to the provisions of this Part.—Notwithstanding anything in this Constitution,—

(a) Parliament shall have, and the Legislature of a State shall not have power to make laws—

(i) with respect to any of the matters which under clause (3) of article 16, clause (3) of article 32, article 33 and article 34 may be provided for by law made by Parliament; and

(ii) for prescribing punishment for those acts which are declared to be offences under this Part,

and Parliament shall, as soon as may be after the commencement of this Constitution, make laws for prescribing punishment for the acts referred to in sub-clause (ii);

(b) any law in force immediately before the commencement of this Constitution in the territory of India with respect to any of the matters referred to in sub-clause (i) of clause (a) or providing for punishment for any act referred to in sub-clause (ii) of that clause shall, subject to the terms thereof and to any adaptations and modifications that may be made therein under article 372, continue in force until altered or repealed or amended by Parliament.

Explanation.—In this article, the expression "law in force" has the same meaning as in article 372.

PART IV

DIRECTIVE PRINCIPLES OF STATE POLICY

36. Definition.—In this Part, unless the context otherwise requires, “the State” has the same meaning as in Part III.

37. Application of the principles contained in this Part.—The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

38. State to secure a social order for the promotion of welfare of the people.—¹[(1)] The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

²[(2) The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.]

39. Certain principles of policy to be followed by the State.—The State shall, in particular, direct its policy towards securing—

(a) that the citizens, men and women equally, have the right to an adequate means of livelihood;

(b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

(d) that there is equal pay for equal work for both men and women;

(e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

1. Art. 38 renumbered as cl. (1) by the Constitution (Forty-fourth Amendment) Act, 1978, s. 9 (w.e.f. 20-6-1979).

2. Ins. by s. 9, *ibid.* (w.e.f. 20-6-1979).

THE CONSTITUTION OF INDIA

(Part IV.— Directive Principles of State Policy)

¹[(f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.]

²[**39A. Equal justice and free legal aid.**—The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.]

40. Organisation of village panchayats.—The State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.

41. Right to work, to education and to public assistance in certain cases.—The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

42. Provision for just and humane conditions of work and maternity relief.—The State shall make provision for securing just and humane conditions of work and for maternity relief.

43. Living wage, etc., for workers.—The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.

³[**43A. Participation of workers in management of industries.**—The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry.]

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 7, for cl. (f) (w.e.f. 3-1-1977).

2. Ins. by s. 8, *ibid.* (w.e.f. 3-1-1977).

3. Ins. by s. 9, *ibid.* (w.e.f. 3-1-1977).

THE CONSTITUTION OF INDIA

(Part IV.— Directive Principles of State Policy)

¹[**43B. Promotion of co-operative societies.**—The State shall endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies.]

44. Uniform civil code for the citizens.—The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

²[**45. Provision for early childhood care and education to children below the age of six years.**—The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.]

46. Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections.—The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health.—The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

48. Organisation of agriculture and animal husbandry.—The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.

³[**48A. Protection and improvement of environment and safeguarding of forests and wild life.**—The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.]

1. Ins. by the Constitution (Ninety-seventh Amendment) Act, 2011, s. 3 (w.e.f. 15-2-2012).

2. Subs. by the Constitution (Eighty-sixth Amendment) Act, 2002, s. 3, for art. 45 (w.e.f. 1-4-2010).

3. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 10 (w.e.f. 3-1-1977).

(Part IV.— Directive Principles of State Policy)

49. Protection of monuments and places and objects of national importance.—It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, ¹[declared by or under law made by Parliament] to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.

50. Separation of judiciary from executive.—The State shall take steps to separate the judiciary from the executive in the public services of the State.

51. Promotion of international peace and security.—The State shall endeavour to—

- (a) promote international peace and security;
- (b) maintain just and honourable relations between nations;
- (c) foster respect for international law and treaty obligations in the dealings of organised peoples with one another; and
- (d) encourage settlement of international disputes by arbitration.

1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 27, for "declared by Parliament by law" (w.e.f. 1-11-1956).

¹[PART IVA

FUNDAMENTAL DUTIES

51A. Fundamental duties.—It shall be the duty of every citizen of India—

- (a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
 - (b) to cherish and follow the noble ideals which inspired our national struggle for freedom;
 - (c) to uphold and protect the sovereignty, unity and integrity of India;
 - (d) to defend the country and render national service when called upon to do so;
 - (e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
 - (f) to value and preserve the rich heritage of our composite culture;
 - (g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
 - (h) to develop the scientific temper, humanism and the spirit of inquiry and reform;
 - (i) to safeguard public property and to abjure violence;
 - (j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement;]
- ²[(k) who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.]

1. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 11 (w.e.f. 3-1-1977).

2. Ins. by the Constitution (Eighty-sixth Amendment) Act, 2002, s. 4 (w.e.f. 1-4-2010).

PART V

THE UNION

CHAPTER I.—THE EXECUTIVE

The President and Vice-President

52. The President of India.—There shall be a President of India.

53. Executive power of the Union.—(1) The executive power of the Union shall be vested in the President and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution.

(2) Without prejudice to the generality of the foregoing provision, the supreme command of the Defence Forces of the Union shall be vested in the President and the exercise thereof shall be regulated by law.

(3) Nothing in this article shall—

(a) be deemed to transfer to the President any functions conferred by any existing law on the Government of any State or other authority; or

(b) prevent Parliament from conferring by law functions on authorities other than the President.

54. Election of President.—The President shall be elected by the members of an electoral college consisting of—

(a) the elected members of both Houses of Parliament; and

(b) the elected members of the Legislative Assemblies of the States.

¹[*Explanation.*—In this article and in article 55, “State” includes the National Capital Territory of Delhi and the Union territory of *Puducherry.]

55. Manner of election of President.—(1) As far as practicable, there shall be uniformity in the scale of representation of the different States at the election of the President.

(2) For the purpose of securing such uniformity among the States *inter se* as well as parity between the States as a whole and the Union, the number of votes which each elected member of Parliament and of the Legislative Assembly of each State is entitled to cast at such election shall be determined in the following manner:—

(a) every elected member of the Legislative Assembly of a State shall have as many votes as there are multiples of one thousand in the quotient obtained by dividing the population of the State by the total number of the elected members of the Assembly;

1. Ins. by the Constitution (Seventieth Amendment) Act, 1992, s. 2 (w.e.f. 1-6-1995).

* Now Puducherry *vide* the Pondicherry (Alteration of Name) Act, 2006 (44 of 2006), s. 3 (w.e.f. 1-10-2006).

THE CONSTITUTION OF INDIA

(Part V.—The Union)

(b) if, after taking the said multiples of one thousand, the remainder is not less than five hundred, then the vote of each member referred to in sub-clause (a) shall be further increased by one;

(c) each elected member of either House of Parliament shall have such number of votes as may be obtained by dividing the total number of votes assigned to the members of the Legislative Assemblies of the States under sub-clauses (a) and (b) by the total number of the elected members of both Houses of Parliament, fractions exceeding one-half being counted as one and other fractions being disregarded.

(3) The election of the President shall be held in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

¹[*Explanation*.—In this article, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published:

Provided that the reference in this *Explanation* to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year ²[2026] have been published, be construed as a reference to the 1971 census.]

56. Term of office of President.—(1) The President shall hold office for a term of five years from the date on which he enters upon his office:

Provided that—

(a) the President may, by writing under his hand addressed to the Vice-President, resign his office;

(b) the President may, for violation of the Constitution, be removed from office by impeachment in the manner provided in article 61;

(c) the President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(2) Any resignation addressed to the Vice-President under clause (a) of the proviso to clause (1) shall forthwith be communicated by him to the Speaker of the House of the People.

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 12, for the *Explanation* (w.e.f. 3-1-1977).

2. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 2, for "2000" (w.e.f. 21-2-2002).

(Part V.—The Union)

57. Eligibility for re-election.—A person who holds, or who has held, office as President shall, subject to the other provisions of this Constitution, be eligible for re-election to that office.

58. Qualifications for election as President.—(1) No person shall be eligible for election as President unless he—

- (a) is a citizen of India,
- (b) has completed the age of thirty-five years, and
- (c) is qualified for election as a member of the House of the People.

(2) A person shall not be eligible for election as President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

Explanation.—For the purposes of this article, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor^{1***} of any State or is a Minister either for the Union or for any State.

59. Conditions of President's office.—(1) The President shall not be a member of either House of Parliament or of a House of the Legislature of any State, and if a member of either House of Parliament or of a House of the Legislature of any State be elected President, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as President.

(2) The President shall not hold any other office of profit.

(3) The President shall be entitled without payment of rent to the use of his official residences and shall be also entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule.

(4) The emoluments and allowances of the President shall not be diminished during his term of office.

60. Oath or affirmation by the President.—Every President and every person acting as President or discharging the functions of the President shall, before entering upon his office, make and subscribe in the presence of the Chief Justice of India or, in his absence, the senior-most Judge of the Supreme Court available, an oath or affirmation in the following form, that is to say—

1. The words "or Rajpramukh or Uparajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

THE CONSTITUTION OF INDIA

(Part V.—The Union)

"I, A.B., do swear in the name of God that I will faithfully execute the office solemnly affirm

of President (or discharge the functions of the President) of India and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of India."

61. Procedure for impeachment of the President.—(1) When a President is to be impeached for violation of the Constitution, the charge shall be preferred by either House of Parliament.

(2) No such charge shall be preferred unless—

(a) the proposal to prefer such charge is contained in a resolution which has been moved after at least fourteen days' notice in writing signed by not less than one-fourth of the total number of members of the House has been given of their intention to move the resolution, and

(b) such resolution has been passed by a majority of not less than two-thirds of the total membership of the House.

(3) When a charge has been so preferred by either House of Parliament, the other House shall investigate the charge or cause the charge to be investigated and the President shall have the right to appear and to be represented at such investigation.

(4) If as a result of the investigation a resolution is passed by a majority of not less than two-thirds of the total membership of the House by which the charge was investigated or caused to be investigated, declaring that the charge preferred against the President has been sustained, such resolution shall have the effect of removing the President from his office as from the date on which the resolution is so passed.

62. Time of holding election to fill vacancy in the office of President and the term of office of person elected to fill casual vacancy.—(1) An election to fill a vacancy caused by the expiration of the term of office of President shall be completed before the expiration of the term.

(2) An election to fill a vacancy in the office of President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after, and in no case later than six months from, the date of occurrence of the vacancy; and the person elected to fill the vacancy shall, subject to the provisions of article 56, be entitled to hold office for the full term of five years from the date on which he enters upon his office.

63. The Vice-President of India.—There shall be a Vice-President of India.

64. The Vice-President to be *ex officio* Chairman of the Council of States.—The Vice-President shall be *ex officio* Chairman of the Council of the States and shall not hold any other office of profit:

(Part V.—The Union)

Provided that during any period when the Vice-President acts as President or discharges the functions of the President under article 65, he shall not perform the duties of the office of Chairman of the Council of States and shall not be entitled to any salary or allowance payable to the Chairman of the Council of States under article 97.

65. The Vice-President to act as President or to discharge his functions during casual vacancies in the office, or during the absence, of President.—(1) In the event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or removal, or otherwise, the Vice-President shall act as President until the date on which a new President elected in accordance with the provisions of this Chapter to fill such vacancy enters upon his office.

(2) When the President is unable to discharge his functions owing to absence, illness or any other cause, the Vice-President shall discharge his functions until the date on which the President resumes his duties.

(3) The Vice-President shall, during, and in respect of, the period while he is so acting as, or discharging the functions of, President, have all the powers and immunities of the President and be entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule.

66. Election of Vice-President.—(1) The Vice-President shall be elected by the ¹[members of an electoral college consisting of the members of both Houses of Parliament] in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

(2) The Vice-President shall not be a member of either House of Parliament or of a House of the Legislature of any State, and if a member of either House of Parliament or of a House of the Legislature of any State be elected Vice-President, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as Vice-President.

(3) No person shall be eligible for election as Vice-President unless he—

- (a) is a citizen of India;
- (b) has completed the age of thirty-five years; and

1. Subs. by the Constitution (Eleventh Amendment) Act, 1961, s. 2, for "members of both Houses of Parliament assembled at a joint meeting" (w.e.f. 19-12-1961).

(Part V.—The Union)

(c) is qualified for election as a member of the Council of States.

(4) A person shall not be eligible for election as Vice-President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

Explanation.—For the purposes of this article, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor^{1***} of any State or is a Minister either for the Union or for any State.

67. Term of office of Vice-President.—The Vice-President shall hold office for a term of five years from the date on which he enters upon his office:

Provided that—

(a) a Vice-President may, by writing under his hand addressed to the President, resign his office;

(b) a Vice-President may be removed from his office by a resolution of the Council of States passed by a majority of all the then members of the Council and agreed to by the House of the People; but no resolution for the purpose of this clause shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution;

(c) a Vice-President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

68. Time of holding election to fill vacancy in the office of Vice-President and the term of office of person elected to fill casual vacancy.—

(1) An election to fill a vacancy caused by the expiration of the term of office of Vice-President shall be completed before the expiration of the term.

(2) An election to fill a vacancy in the office of Vice-President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after the occurrence of the vacancy, and the person elected to fill the vacancy shall, subject to the provisions of article 67, be entitled to hold office for the full term of five years from the date on which he enters upon his office.

69. Oath or affirmation by the Vice-President.—Every Vice-President shall, before entering upon his office, make and subscribe before the

1. The words "or Rajpramukh or Uparajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

(Part V.—The Union)

President, or some person appointed in that behalf by him, an oath or affirmation in the following form, that is to say—

"I, A.B., do swear in the name of God that I will bear true faith and solemnly affirm

allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter.".

70. Discharge of President's functions in other contingencies.—Parliament may make such provision as it thinks fit for the discharge of the functions of the President in any contingency not provided for in this Chapter.

[71. Matters relating to, or connected with, the election of a President or Vice-President.]—(1) All doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final.

(2) If the election of a person as President or Vice-President is declared void by the Supreme Court, acts done by him in the exercise and performance of the powers and duties of the office of President or Vice-President, as the case may be, on or before the date of the decision of the Supreme Court shall not be invalidated by reason of that declaration.

(3) Subject to the provisions of this Constitution, Parliament may by law regulate any matter relating to or connected with the election of a President or Vice-President.

(4) The election of a person as President or Vice-President shall not be called in question on the ground of the existence of any vacancy for whatever reason among the members of the electoral college electing him.]

72. Power of President to grant pardons, etc., and to suspend, remit or commute sentences in certain cases.—(1) The President shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence—

(a) in all cases where the punishment or sentence is by a Court Martial;

1. Subs. by the Constitution (Thirty-ninth Amendment) Act, 1975, s. 2 (w.e.f 10-8-1975) and further subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 10. (w.e.f. 20-6-1979).

THE CONSTITUTION OF INDIA

(Part V.—The Union)

(b) in all cases where the punishment or sentence is for an offence against any law relating to a matter to which the executive power of the Union extends;

(c) in all cases where the sentence is a sentence of death.

(2) Nothing in sub-clause (a) of clause (1) shall affect the power conferred by law on any officer of the Armed Forces of the Union to suspend, remit or commute a sentence passed by a Court Martial.

(3) Nothing in sub-clause (c) of clause (1) shall affect the power to suspend, remit or commute a sentence of death exercisable by the Governor ^{1***} of a State under any law for the time being in force.

73. Extent of executive power of the Union.—(1) Subject to the provisions of this Constitution, the executive power of the Union shall extend—

(a) to the matters with respect to which Parliament has power to make laws; and

(b) to the exercise of such rights, authority and jurisdiction as are exercisable by the Government of India by virtue of any treaty or agreement:

Provided that the executive power referred to in sub-clause (a) shall not, save as expressly provided in this Constitution or in any law made by Parliament, extend in any State ^{2***} to matters with respect to which the Legislature of the State has also power to make laws.

(2) Until otherwise provided by Parliament, a State and any officer or authority of a State may, notwithstanding anything in this article, continue to exercise in matters with respect to which Parliament has power to make laws for that State such executive power or functions as the State or officer or authority thereof could exercise immediately before the commencement of this Constitution.

1. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

THE CONSTITUTION OF INDIA

(Part V.—The Union)

Council of Ministers

74. Council of Ministers to aid and advise President.—¹[(1) There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall, in the exercise of his functions, act in accordance with such advice:]

²[Provided that the President may require the Council of Ministers to reconsider such advice, either generally or otherwise, and the President shall act in accordance with the advice tendered after such reconsideration.]

(2) The question whether any, and if so what, advice was tendered by Ministers to the President shall not be inquired into in any court.

75. Other provisions as to Ministers.—(1) The Prime Minister shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Prime Minister.

³[(1A) The total number of Ministers, including the Prime Minister, in the Council of Ministers shall not exceed fifteen per cent. of the total number of members of the House of the People.

(1B) A member of either House of Parliament belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall also be disqualified to be appointed as a Minister under clause (1) for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or where he contests any election to either House of Parliament before the expiry of such period, till the date on which he is declared elected, whichever is earlier.]

(2) The Ministers shall hold office during the pleasure of the President.

(3) The Council of Ministers shall be collectively responsible to the House of the People.

(4) Before a Minister enters upon his office, the President shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s.13, for cl. (1) (w.e.f. 3-1-1977).

2. Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 11 (w.e.f. 20-6-1979).

3. Ins. by the Constitution (Ninety-first Amendment) Act, 2003, s. 2 (w.e.f. 1-1-2004).

(Part V.—The Union)

(5) A Minister who for any period of six consecutive months is not a member of either House of Parliament shall at the expiration of that period cease to be a Minister.

(6) The salaries and allowances of Ministers shall be such as Parliament may from time to time by law determine and, until Parliament so determines, shall be as specified in the Second Schedule.

The Attorney-General for India

76. Attorney-General for India.—(1) The President shall appoint a person who is qualified to be appointed a Judge of the Supreme Court to be Attorney-General for India.

(2) It shall be the duty of the Attorney-General to give advice to the Government of India upon such legal matters, and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the President, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force.

(3) In the performance of his duties the Attorney-General shall have right of audience in all courts in the territory of India.

(4) The Attorney-General shall hold office during the pleasure of the President, and shall receive such remuneration as the President may determine.

Conduct of Government Business

77. Conduct of business of the Government of India.—(1) All executive action of the Government of India shall be expressed to be taken in the name of the President.

(2) Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules¹ to be made by the President, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President.

(3) The President shall make rules for the more convenient transaction of the business of the Government of India, and for the allocation among Ministers of the said business.

(4) * *

1. See notifiin No. S.O. 2297, dated the 3rd November, 1958, Gazette of India, Extraordinary, Pt. II, Sec. 3 (ii), p. 1315, as amended from time to time.

2. Cl. (4) was ins. by the Constitution (Forty-second Amendment) Act, 1976, s.14 (w.e.f. 3-1-1977) and omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 12 (w.e.f. 20-6-1979).

(Part V.—The Union)

78. Duties of Prime Minister as respects the furnishing of information to the President, etc.—It shall be the duty of the Prime Minister—

(a) to communicate to the President all decisions of the Council of Ministers relating to the administration of the affairs of the Union and proposals for legislation;

(b) to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and

(c) if the President so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

CHAPTER II.—PARLIAMENT

General

79. Constitution of Parliament.—There shall be a Parliament for the Union which shall consist of the President and two Houses to be known respectively as the Council of States and the House of the People.

80. Composition of the Council of States.—(1) ^{1[2***]} The Council of States] shall consist of—

(a) twelve members to be nominated by the President in accordance with the provisions of clause (3); and

(b) not more than two hundred and thirty-eight representatives of the States ^{3[and of the Union territories].}

(2) The allocation of seats in the Council of States to be filled by representatives of the States ^{3[and of the Union territories]} shall be in accordance with the provisions in that behalf contained in the Fourth Schedule.

(3) The members to be nominated by the President under sub-clause (a) of clause (1) shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely:—

Literature, science, art and social service.

1. Subs. by the Constitution (Thirty-fifth Amendment) Act, 1974, s. 3, for "The Council of States" (w.e.f. 1-3-1975).

2. The words "Subject to the provisions of para. 4 of the Tenth Schedule," omitted by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 5 (w.e.f. 26-4-1975).

3. Added by the Constitution (Seventh Amendment) Act, 1956, s. 3 (w.e.f. 1-11-1956).

THE CONSTITUTION OF INDIA

(Part V.—The Union)

(4) The representatives of each State ^{1***} in the Council of States shall be elected by the elected members of the Legislative Assembly of the State in accordance with the system of proportional representation by means of the single transferable vote.

(5) The representatives of the ²[Union territories] in the Council of States shall be chosen in such manner as Parliament may by law prescribe.

³[**81. Composition of the House of the People.**—(1) ⁴[Subject to the provisions of article 331 ^{5***}], the House of the People shall consist of—

(a) not more than ⁶[five hundred and thirty members] chosen by direct election from territorial constituencies in the States; and

(b) not more than ⁷[twenty members] to represent the Union territories, chosen in such manner as Parliament may by law provide.

(2) For the purposes of sub-clause (a) of clause (1),—

(a) there shall be allotted to each State a number of seats in the House of the People in such manner that the ratio between that number and the population of the State is, so far as practicable, the same for all States; and

(b) each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it is, so far as practicable, the same throughout the State:

⁸[Provided that the provisions of sub-clause (a) of this clause shall not be applicable for the purpose of allotment of seats in the House of the People to any State so long as the population of that State does not exceed six millions.]

-
1. The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 3 (w.e.f. 1-11-1956).
 2. Subs. by s. 3, *ibid.*, for "States specified in Part C of First Schedule" (w.e.f. 1-11-1956).
 3. Subs. by s. 4, *ibid.*, for arts. 81 and 82 (w.e.f. 1-11-1956).
 4. Subs. by the Constitution (Thirty-fifth Amendment) Act, 1974, s. 4, for "subject to the provisions of art. 331" (w.e.f. 1-3-1975).
 5. The words and figure "and para. 4 of the Tenth Schedule" omitted by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 5 (w.e.f. 26-4-1975).
 6. Subs. by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), s. 63, for "five hundred and twenty-five members" (w.e.f. 30-5-1987).
 7. Subs. by the Constitution (Thirty-first Amendment) Act, 1973, s. 2, for "twenty-five members" (w.e.f. 17-10-1973).
 8. Ins. by s. 2, *ibid.* (w.e.f. 17-10-1973).

(Part V.—The Union)

(3) In this article, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published:

¹[Provided that the reference in this clause to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year ²[2026] have been published, ³[be construed,—

(i) for the purposes of sub-clause (*a*) of clause (2) and the proviso to that clause, as a reference to the 1971 census; and

(ii) for the purposes of sub-clause (*b*) of clause (2) as a reference to the ⁴[2001] census.]]

82. Readjustment after each census.—Upon the completion of each census, the allocation of seats in the House of the People to the States and the division of each State into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine:

Provided that such readjustment shall not affect representation in the House of the People until the dissolution of the then existing House:

⁵[Provided further that such readjustment shall take effect from such date as the President may, by order, specify and until such readjustment takes effect, any election to the House may be held on the basis of the territorial constituencies existing before such readjustment:

Provided also that until the relevant figures for the first census taken after the year ⁶[2026] have been published, it shall not be necessary to ⁷[readjust,—

1. Added by the Constitution (Forty-second Amendment) Act, 1976, s. 15 (w.e.f. 3-1-1977).

2. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 3, for "2000" (w.e.f. 21-2-2002).

3. Subs. by s.3, *ibid.*, for certain words (w.e.f. 21-2-2002).

4. Subs. by the Constitution (Eighty-seventh Amendment) Act, 2003, s. 2, for "1991" (w.e.f. 22-6-2003).

5. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 16 (w.e.f. 3-1-1977).

6. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 4, for "2000" (w.e.f. 21-2-2002).

7. Subs. by s.4, *ibid.*, for certain words (w.e.f. 21-2-2002).

THE CONSTITUTION OF INDIA

(Part V.—The Union)

- (i) the allocation of seats in the House of the People to the States as readjusted on the basis of the 1971 census; and
- (ii) the division of each State into territorial constituencies as may be readjusted on the basis of the ¹[2001] census,
under this article.]]

83. Duration of Houses of Parliament.—(1) The Council of States shall not be subject to dissolution, but as nearly as possible one-third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law.

(2) The House of the People, unless sooner dissolved, shall continue for ²[five years] from the date appointed for its first meeting and no longer and the expiration of the said period of ²[five years] shall operate as a dissolution of the House:

Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

84. Qualification for membership of Parliament.—A person shall not be qualified to be chosen to fill a seat in Parliament unless he—

³[(a) is a citizen of India, and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule;]

(b) is, in the case of a seat in the Council of States, not less than thirty years of age and, in the case of a seat in the House of the People, not less than twenty-five years of age; and

(c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

-
1. Subs. by the Constitution (Eighty-seventh Amendment) Act, 2003, s. 3, for "1991" (w.e.f. 22-6-2003).
 2. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 17, for "five years" (w.e.f. 3-1-1977) and further subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 13, for "six years" (w.e.f. 20-6-1979).
 3. Subs. by the Constitution (Sixteenth Amendment) Act, 1963, s. 3, for cl.(a) (w.e.f. 5-10-1963).

(Part V.—The Union)

¹[**85. Sessions of Parliament, prorogation and dissolution.**—(1) The President shall from time to time summon each House of Parliament to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(2) The President may from time to time—

- (a) prorogue the Houses or either House;
- (b) dissolve the House of the People.]

86. Right of President to address and send messages to Houses.—(1) The President may address either House of Parliament or both Houses assembled together, and for that purpose require the attendance of members.

(2) The President may send messages to either House of Parliament, whether with respect to a Bill then pending in Parliament or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

87. Special address by the President.—(1) At the commencement of ²[the first session after each general election to the House of the People and at the commencement of the first session of each year] the President shall address both Houses of Parliament assembled together and inform Parliament of the causes of its summons.

(2) Provision shall be made by the rules regulating the procedure of either House for the allotment of time for discussion of the matters referred to in such address ^{3***}.

88. Rights of Ministers and Attorney-General as respects Houses.—Every Minister and the Attorney-General of India shall have the right to speak in, and otherwise to take part in the proceedings of, either House, any joint sitting of the Houses, and any committee of Parliament of which he may be named a member, but shall not by virtue of this article be entitled to vote.

1. Subs. by the Constitution (First Amendment) Act, 1951, s. 6, for art. 85 (w.e.f. 18-6-1951).

2. Subs. by the Constitution (First Amendment) Act, 1951, s. 7, for "every session" (w.e.f. 18-6-1951).

3. The words "and for the precedence of such discussion over other business of the House" omitted by s. 7, *ibid.* (w.e.f. 18-6-1951).

(Part V.—The Union)

Officers of Parliament

89. The Chairman and Deputy Chairman of the Council of States.—(1) The Vice-President of India shall be *ex officio* Chairman of the Council of States.

(2) The Council of States shall, as soon as may be, choose a member of the Council to be Deputy Chairman thereof and, so often as the office of Deputy Chairman becomes vacant, the Council shall choose another member to be Deputy Chairman thereof.

90. Vacation and resignation of, and removal from, the office of Deputy Chairman.—A member holding office as Deputy Chairman of the Council of States—

(a) shall vacate his office if he ceases to be a member of the Council;

(b) may at any time, by writing under his hand addressed to the Chairman, resign his office; and

(c) may be removed from his office by a resolution of the Council passed by a majority of all the then members of the Council:

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

91. Power of the Deputy Chairman or other person to perform the duties of the office of, or to act as, Chairman.—(1) While the office of Chairman is vacant, or during any period when the Vice-President is acting as, or discharging the functions of, President, the duties of the office shall be performed by the Deputy Chairman, or, if the office of Deputy Chairman is also vacant, by such member of the Council of States as the President may appoint for the purpose.

(2) During the absence of the Chairman from any sitting of the Council of States the Deputy Chairman, or, if he is also absent, such person as may be determined by the rules of procedure of the Council, or, if no such person is present, such other person as may be determined by the Council, shall act as Chairman.

92. The Chairman or the Deputy Chairman not to preside while a resolution for his removal from office is under consideration.—(1) At any sitting of the Council of States, while any resolution for the removal of the Vice-President from his office is under consideration, the Chairman, or while any resolution for the removal of the Deputy Chairman from his office is under consideration, the Deputy Chairman, shall not, though he is present, preside, and the provisions of clause (2) of article 91 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Chairman, or, as the case may be, the Deputy Chairman, is absent.

(Part V.—The Union)

(2) The Chairman shall have the right to speak in, and otherwise to take part in the proceedings of, the Council of States while any resolution for the removal of the Vice-President from his office is under consideration in the Council, but, notwithstanding anything in article 100, shall not be entitled to vote at all on such resolution or on any other matter during such proceedings.

93. The Speaker and Deputy Speaker of the House of the People.—The House of the People shall, as soon as may be, choose two members of the House to be respectively Speaker and Deputy Speaker thereof and, so often as the office of Speaker or Deputy Speaker becomes vacant, the House shall choose another member to be Speaker or Deputy Speaker, as the case may be.

94. Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker.—A member holding office as Speaker or Deputy Speaker of the House of the People—

(a) shall vacate his office if he ceases to be a member of the House of the People;

(b) may at any time, by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office; and

(c) may be removed from his office by a resolution of the House of the People passed by a majority of all the then members of the House:

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

Provided further that, whenever the House of the People is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the House of the People after the dissolution.

95. Power of the Deputy Speaker or other person to perform the duties of the office of, or to act as, Speaker.—(1) While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker or, if the office of Deputy Speaker is also vacant, by such member of the House of the People as the President may appoint for the purpose.

(2) During the absence of the Speaker from any sitting of the House of the People the Deputy Speaker or, if he is also absent, such person as may be determined by the rules of procedure of the House, or, if no such person is present, such other person as may be determined by the House, shall act as Speaker.

(Part V.—The Union)

96. The Speaker or the Deputy Speaker not to preside while a resolution for his removal from office is under consideration.—(1) At any sitting of the House of the People, while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside, and the provisions of clause (2) of article 95 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker, or, as the case may be, the Deputy Speaker, is absent.

(2) The Speaker shall have the right to speak in, and otherwise to take part in the proceedings of, the House of the People while any resolution for his removal from office is under consideration in the House and shall, notwithstanding anything in article 100, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

97. Salaries and allowances of the Chairman and Deputy Chairman and the Speaker and Deputy Speaker.—There shall be paid to the Chairman and the Deputy Chairman of the Council of States, and to the Speaker and the Deputy Speaker of the House of the People, such salaries and allowances as may be respectively fixed by Parliament by law and, until provision in that behalf is so made, such salaries and allowances as are specified in the Second Schedule.

98. Secretariat of Parliament.—(1) Each House of Parliament shall have a separate secretarial staff:

Provided that nothing in this clause shall be construed as preventing the creation of posts common to both Houses of Parliament.

(2) Parliament may by law regulate the recruitment, and the conditions of service of persons appointed, to the secretarial staff of either House of Parliament.

(3) Until provision is made by Parliament under clause (2), the President may, after consultation with the Speaker of the House of the People or the Chairman of the Council of States, as the case may be, make rules regulating the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the House of the People or the Council of States, and any rules so made shall have effect subject to the provisions of any law made under the said clause.

Conduct of Business

99. Oath or affirmation by members.—Every member of either House of Parliament shall, before taking his seat, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

100. Voting in Houses, power of Houses to act notwithstanding vacancies and quorum.—(1) Save as otherwise provided in this Constitution, all questions at any sitting of either House or joint sitting of the Houses shall be determined by a majority of votes of the members present and voting, other than the Speaker or person acting as Chairman or Speaker.

The Chairman or Speaker, or person acting as such, shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(2) Either House of Parliament shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in Parliament shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do sat or voted or otherwise took part in the proceedings.

¹[(3) Until Parliament by law otherwise provides, the quorum to constitute a meeting of either House of Parliament shall be one-tenth of the total number of members of the House.

(4) If at any time during a meeting of a House there is no quorum, it shall be the duty of the Chairman or Speaker, or person acting as such, either to adjourn the House or to suspend the meeting until there is a quorum.]

Disqualifications of Members

101. Vacation of seats.—(1) No person shall be a member of both Houses of Parliament and provision shall be made by Parliament by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other.

1. Cls. (3) and (4) omitted by the Constitution (Forty-second Amendment) Act, 1976, s. 18 (date not notified). This amendment was omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 45 (w.e.f. 20-6-1979).

(Part V.—The Union)

(2) No person shall be a member both of Parliament and of a House of the Legislature of a State ^{1***}, and if a person is chosen a member both of Parliament and of a House of the Legislature of ^{2[a State]}, then, at the expiration of such period as may be specified in rules* made by the President, that person's seat in Parliament shall become vacant, unless he has previously resigned his seat in the Legislature of the State.

(3) If a member of either House of Parliament—

- (a) becomes subject to any of the disqualifications mentioned in ^{3[clause (1) or clause (2) of article 102]; or}
- ^{4[(b) resigns his seat by writing under his hand addressed to the Chairman or the Speaker, as the case may be, and his resignation is accepted by the Chairman or the Speaker, as the case may be.]}

his seat shall thereupon become vacant:

^{5[Provided that in the case of any resignation referred to in sub-clause (b), if from information received or otherwise and after making such inquiry as he thinks fit, the Chairman or the Speaker, as the case may be, is satisfied that such resignation is not voluntary or genuine, he shall not accept such resignation.]}

(4) If for a period of sixty days a member of either House of Parliament is without permission of the House absent from all meetings thereof, the House may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the House is prorogued or is adjourned for more than four consecutive days.

1. The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. Subs. by s. 29 and Sch., *ibid.*, for "such a State" (w.e.f. 1-11-1956).

* See the Prohibition of Simultaneous Membership Rules, 1950, published with the Ministry of Law, notifn. No. F. 46/50-C, dated the 26th January, 1950, Gazette of India, Extraordinary, P. 678.

3. Subs. by the Constitution (Fifty-second Amendment) Act, 1985, s. 2, for "cl. (1) of art. 102" (w.e.f. 1-3-1985).

4. Subs. by the Constitution (Thirty-third Amendment) Act, 1974, s. 2 (w.e.f. 19-5-1974).

5. Ins. by s.2, *ibid.* (w.e.f. 19-5-1974).

(Part V.—The Union)

102. Disqualifications for membership.—(1) A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament—

¹[(a) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder;]

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

(c) if he is an undischarged insolvent;

(d) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgment of allegiance or adherence to a foreign State;

(e) if he is so disqualified by or under any law made by Parliament.

²[Explanation.—For the purposes of this clause] a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State by reason only that he is a Minister either for the Union or for such State.

³[(2) A person shall be disqualified for being a member of either House of Parliament if he is so disqualified under the Tenth Schedule.]

103. Decision on questions as to disqualifications of members.—

(1) If any question arises as to whether a member of either House of Parliament has become subject to any of the disqualifications mentioned in clause (1) of article 102, the question shall be referred for the decision of the President and his decision shall be final.

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 19 to read as "(a) if he holds any such office of profit under the Government of India or the Government of any State as is declared by Parliament by law to disqualify its holder" (date not notified). This amendment was omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 45 (w.e.f. 20-6-1979).
2. Subs. by the Constitution (Fifty-second Amendment) Act, 1985, s. 3, for "(2) for the purposes of this art." (w.e.f. 1-3-1985).
3. Ins. by s. 3, *ibid.* (w.e.f. 1-3-1985).
4. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 20, for art. 103 (w.e.f. 3-1-1977) and further subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 14, for art. 103 (w.e.f. 20-6-1979).

(Part V.—The Union)

(2) Before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion.]

104. Penalty for sitting and voting before making oath or affirmation under article 99 or when not qualified or when disqualified.—If a person sits or votes as a member of either House of Parliament before he has complied with the requirements of article 99, or when he knows that he is not qualified or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Union.

Powers, Privileges and Immunities of Parliament and its Members

105. Powers, privileges, etc., of the Houses of Parliament and of the members and committees thereof.—(1) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of Parliament, there shall be freedom of speech in Parliament.

(2) No member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.

¹[(3) In other respects, the powers, privileges and immunities of each House of Parliament, and of the members and the committees of each House, shall be such as may from time to time be defined by Parliament by law, and, until so defined, ²[shall be those of that House and of its members and committees immediately before the coming into force of section 15 of the Constitution (Forty-fourth Amendment) Act, 1978.]].

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 21 (date to be notified). This amendment was omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 45 (w.e.f. 20-6-1979).

2. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 15, for certain words (w.e.f. 20-6-1979).

(Part V.—The Union)

(4) The provisions of clauses (1), (2) and (3) shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise to take part in the proceedings of, a House of Parliament or any committee thereof as they apply in relation to members of Parliament.

106. Salaries and allowances of members.—Members of either House of Parliament shall be entitled to receive such salaries and allowances as may from time to time be determined by Parliament by law and, until provision in that respect is so made, allowances at such rates and upon such conditions as were immediately before the commencement of this Constitution applicable in the case of members of the Constituent Assembly of the Dominion of India.

Legislative Procedure

107. Provisions as to introduction and passing of Bills.—(1) Subject to the provisions of articles 109 and 117 with respect to Money Bills and other financial Bills, a Bill may originate in either House of Parliament.

(2) Subject to the provisions of articles 108 and 109, a Bill shall not be deemed to have been passed by the Houses of Parliament unless it has been agreed to by both Houses, either without amendment or with such amendments only as are agreed to by both Houses.

(3) A Bill pending in Parliament shall not lapse by reason of the prorogation of the Houses.

(4) A Bill pending in the Council of States which has not been passed by the House of the People shall not lapse on a dissolution of the House of the People.

(5) A Bill which is pending in the House of the People, or which having been passed by the House of the People is pending in the Council of States, shall, subject to the provisions of article 108, lapse on a dissolution of the House of the People.

108. Joint sitting of both Houses in certain cases.—(1) If after a Bill has been passed by one House and transmitted to the other House—

(a) the Bill is rejected by the other House; or

(b) the Houses have finally disagreed as to the amendments to be made in the Bill; or

(c) more than six months elapse from the date of the reception of the Bill by the other House without the Bill being passed by it,

(Part V.—The Union)

the President may, unless the Bill has elapsed by reason of a dissolution of the House of the People, notify to the Houses by message if they are sitting or by public notification if they are not sitting, his intention to summon them to meet in a joint sitting for the purpose of deliberating and voting on the Bill:

Provided that nothing in this clause shall apply to a Money Bill.

(2) In reckoning any such period of six months as is referred to in clause (1), no account shall be taken of any period during which the House referred to in sub-clause (c) of that clause is prorogued or adjourned for more than four consecutive days.

(3) Where the President has under clause (1) notified his intention of summoning the Houses to meet in a joint sitting, neither House shall proceed further with the Bill, but the President may at any time after the date of his notification summon the Houses to meet in a joint sitting for the purpose specified in the notification and, if he does so, the Houses shall meet accordingly.

(4) If at the joint sitting of the two Houses the Bill, with such amendments, if any, as are agreed to in joint sitting, is passed by a majority of the total number of members of both Houses present and voting, it shall be deemed for the purposes of this Constitution to have been passed by both Houses:

Provided that at a joint sitting—

(a) if the Bill, having been passed by one House, has not been passed by the other House with amendments and returned to the House in which it originated, no amendment shall be proposed to the Bill other than such amendments (if any) as are made necessary by the delay in the passage of the Bill;

(b) if the Bill has been so passed and returned, only such amendments as aforesaid shall be proposed to the Bill and such other amendments as are relevant to the matters with respect to which the Houses have not agreed, and the decision of the person presiding as to the amendments which are admissible under this clause shall be final.

(5) A joint sitting may be held under this article and a Bill passed thereat, notwithstanding that a dissolution of the House of the People has intervened since the President notified his intention to summon the Houses to meet therein.

109. Special procedure in respect of Money Bills.—(1) A Money Bill shall not be introduced in the Council of States.

(Part V.—The Union)

(2) After a Money Bill has been passed by the House of the People it shall be transmitted to the Council of States for its recommendations and the Council of States shall within a period of fourteen days from the date of its receipt of the Bill return the Bill to the House of the People with its recommendations and the House of the People may thereupon either accept or reject all or any of the recommendations of the Council of States.

(3) If the House of the People accepts any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses with the amendments recommended by the Council of States and accepted by the House of the People.

(4) If the House of the People does not accept any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses in the form in which it was passed by the House of the People without any of the amendments recommended by the Council of States.

(5) If a Money Bill passed by the House of the People and transmitted to the Council of States for its recommendations is not returned to the House of the People within the said period of fourteen days, it shall be deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by the House of the People.

110. Definition of “Money Bills”.—(1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely:—

- (a) the imposition, abolition, remission, alteration or regulation of any tax;
- (b) the regulation of the borrowing of money or the giving of any guarantee by the Government of India, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India;
- (c) the custody of the Consolidated Fund or the Contingency Fund of India, the payment of moneys into or the withdrawal of moneys from any such Fund;
- (d) the appropriation of moneys out of the Consolidated Fund of India;
- (e) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure;

THE CONSTITUTION OF INDIA

(Part V.—The Union)

(f) the receipt of money on account of the Consolidated Fund of India or the public account of India or the custody or issue of such money or the audit of the accounts of the Union or of a State; or

(g) any matter incidental to any of the matters specified in sub-clauses (a) to (f).

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the House of the People thereon shall be final.

(4) There shall be endorsed on every Money Bill when it is transmitted to the Council of States under article 109, and when it is presented to the President for assent under article 111, the certificate of the Speaker of the House of the People signed by him that it is a Money Bill.

111. Assent to Bills.—When a Bill has been passed by the Houses of Parliament, it shall be presented to the President, and the President shall declare either that he assents to the Bill, or that he withholds assent therefrom:

Provided that the President may, as soon as possible after the presentation to him of a Bill for assent, return the Bill if it is not a Money Bill to the Houses with a message requesting that they will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message, and when a Bill is so returned, the Houses shall reconsider the Bill accordingly, and if the Bill is passed again by the Houses with or without amendment and presented to the President for assent, the President shall not withhold assent therefrom.

Procedure in Financial Matters

112. Annual financial statement.—(1) The President shall in respect of every financial year cause to be laid before both the Houses of Parliament a statement of the estimated receipts and expenditure of the Government of India for that year, in this Part referred to as the "annual financial statement".

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

(Part V.—The Union)

(a) the sums required to meet expenditure described by this Constitution as expenditure charged upon the Consolidated Fund of India; and

(b) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of India,

and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged on the Consolidated Fund of India—

(a) the emoluments and allowances of the President and other expenditure relating to his office;

(b) the salaries and allowances of the Chairman and the Deputy Chairman of the Council of States and the Speaker and the Deputy Speaker of the House of the People;

(c) debt charges for which the Government of India is liable including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt;

(d) (i) the salaries, allowances and pensions payable to or in respect of Judges of the Supreme Court;

(ii) the pensions payable to or in respect of Judges of the Federal Court;

(iii) the pensions payable to or in respect of Judges of any High Court which exercises jurisdiction in relation to any area included in the territory of India or which at any time before the commencement of this Constitution exercised jurisdiction in relation to any area included in¹[a Governor's Province of the Dominion of India];

(e) the salary, allowances and pension payable to or in respect of the Comptroller and Auditor-General of India;

(f) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal;

(g) any other expenditure declared by this Constitution or by Parliament by law to be so charged.

113. Procedure in Parliament with respect to estimates.—(1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of India shall not be submitted to the vote of Parliament, but nothing in this clause shall be construed as preventing the discussion in either House of Parliament of any of those estimates.

1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch., for "a Province corresponding to a State specified in Part A of the First Schedule" (w.e.f. 1-11-1956).

(Part V.—The Union)

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the House of the People, and the House of the People shall have power to assent, or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the President.

114. Appropriation Bills.—(1) As soon as may be after the grants under article 113 have been made by the House of the People, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of India of all moneys required to meet—

(a) the grants so made by the House of the People; and

(b) the expenditure charged on the Consolidated Fund of India but not exceeding in any case the amount shown in the statement previously laid before Parliament.

(2) No amendment shall be proposed to any such Bill in either House of Parliament which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of India, and the decision of the person presiding as to whether an amendment is inadmissible under this clause shall be final.

(3) Subject to the provisions of articles 115 and 116, no money shall be withdrawn from the Consolidated Fund of India except under appropriation made by law passed in accordance with the provisions of this article.

115. Supplementary, additional or excess grants.—(1) The President shall—

(a) if the amount authorised by any law made in accordance with the provisions of article 114 to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year; or

(b) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year, cause to be laid before both the Houses of Parliament another statement showing the estimated amount of that expenditure or cause to be presented to the House of the People a demand for such excess, as the case may be.

(Part V.—The Union)

(2) The provisions of articles 112, 113 and 114 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of India to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet such expenditure or grant.

116. Votes on account, votes of credit and exceptional grants.—(1) Notwithstanding anything in the foregoing provisions of this Chapter, the House of the People shall have power—

(a) to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in article 113 for the voting of such grant and the passing of the law in accordance with the provisions of article 114 in relation to that expenditure;

(b) to make a grant for meeting an unexpected demand upon the resources of India when on account of the magnitude or the indefinite character of the service the demand cannot be stated with the details ordinarily given in an annual financial statement;

(c) to make an exceptional grant which forms no part of the current service of any financial year,

and Parliament shall have power to authorise by law the withdrawal of moneys from the Consolidated Fund of India for the purposes for which the said grants are made.

(2) The provisions of articles 113 and 114 shall have effect in relation to the making of any grant under clause (1) and to any law to be made under that clause as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet such expenditure.

117. Special provisions as to financial Bills.—(1) A Bill or amendment making provision for any of the matters specified in sub-clauses (a) to (f) of clause (1) of article 110 shall not be introduced or moved except on the recommendation of the President and a Bill making such provision shall not be introduced in the Council of States:

Provided that no recommendation shall be required under this clause for the moving of an amendment making provision for the reduction or abolition of any tax.

(Part V.—The Union)

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of India shall not be passed by either House of Parliament unless the President has recommended to that House the consideration of the Bill.

Procedure Generally

118. Rules of procedure.—(1) Each House of Parliament may make rules for regulating, subject to the provisions of this Constitution, its procedure* and the conduct of its business.

(2) Until rules are made under clause (1), the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Legislature of the Dominion of India shall have effect in relation to Parliament subject to such modifications and adaptations as may be made therein by the Chairman of the Council of States or the Speaker of the House of the People, as the case may be.

(3) The President, after consultation with the Chairman of the Council of States and the Speaker of the House of the People, may make rules as to the procedure with respect to joint sittings of, and communications between, the two Houses.

(4) At a joint sitting of the two Houses the Speaker of the House of the People, or in his absence such person as may be determined by rules of procedure made under clause (3), shall preside.

119. Regulation by law of procedure in Parliament in relation to financial business.—Parliament may, for the purpose of the timely completion of financial business, regulate by law the procedure of, and the conduct of business in, each House of Parliament in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of India, and, if and so far as any provision of any law so made is inconsistent with any rule made by a House of Parliament under clause (1) of article 118 or with any rule or standing order having effect in relation to Parliament under clause (2) of that article, such provision shall prevail.

* The brackets and words "(including the quorum to constitute a meeting of the House" ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 22 (date not notified). This amendment was omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 45 (w.e.f. 20-6-1979).

(Part V.—The Union)

120. Language to be used in Parliament.—(1) Notwithstanding anything in Part XVII, but subject to the provisions of article 348, business in Parliament shall be transacted in Hindi or in English:

Provided that the Chairman of the Council of States or Speaker of the House of the People, or person acting as such, as the case may be, may permit any member who cannot adequately express himself in Hindi or in English to address the House in his mother-tongue.

(2) Unless Parliament by law otherwise provides, this article shall, after the expiration of a period of fifteen years from the commencement of this Constitution, have effect as if the words “or in English” were omitted therefrom.

121. Restriction on discussion in Parliament.—No discussion shall take place in Parliament with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties except upon a motion for presenting an address to the President praying for the removal of the Judge as hereinafter provided.

122. Courts not to inquire into proceedings of Parliament.—(1) The validity of any proceedings in Parliament shall not be called in question on the ground of any alleged irregularity of procedure.

(2) No officer or member of Parliament in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in Parliament shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

CHAPTER III.—LEGISLATIVE POWERS OF THE PRESIDENT

123. Power of President to promulgate Ordinances during recess of Parliament.—(1) If at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require.

(2) An Ordinance promulgated under this article shall have the same force and effect as an Act of Parliament, but every such Ordinance—

(a) shall be laid before both Houses of Parliament and shall cease to operate at the expiration of six weeks from the reassembly of Parliament, or, if before the expiration of that period resolutions disapproving it are passed by both Houses, upon the passing of the second of those resolutions; and

THE CONSTITUTION OF INDIA

(Part V.—The Union)

(b) may be withdrawn at any time by the President.

Explanation.—Where the Houses of Parliament are summoned to reassemble on different dates, the period of six weeks shall be reckoned from the later of those dates for the purposes of this clause.

(3) If and so far as an Ordinance under this article makes any provision which Parliament would not under this Constitution be competent to enact, it shall be void.

1(4)* * * *

CHAPTER IV.—THE UNION JUDICIARY

124. Establishment and constitution of the Supreme Court.—(1)

There shall be a Supreme Court of India consisting of a Chief Justice of India and, until Parliament by law prescribes a larger number, of not more than *[seven] other Judges.

(2) Every Judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal ²[on the recommendation of the National Judicial Appointments Commission referred to in article 124A] and shall hold office until he attains the age of sixty-five years:

3[* * * *]

⁴[Provided that]—

(a) a Judge may, by writing under his hand addressed to the President, resign his office;

(b) a Judge may be removed from his office in the manner provided in clause (4).

1. Ins. by the Constitution (Thirty-eighth Amendment) Act, 1975, s. 2 (with retrospective effect) and omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 16 (w.e.f. 20-6-1979).

* Now "thirty-three" *vide* the Supreme Court (Number of Judges) Amendment Act, 2019 (37 of 2019), s. 2 (w.e.f. 9-8-2019).

2. Subs. by the Constitution (Ninety-ninth Amendment) Act, 2014, s. 2, for "after consultation with such of the Judges of the Supreme Court and of the High Court in the States as the President may deem necessary for the purpose" (w.e.f. 13-4-2015). This amendment has been struck down by the Supreme Court in the case of Supreme Court Advocates-on-Record Association and another Vs. Union of India in its judgment dated 16-10-2015, AIR 2016 SC 117.

3. The first proviso was omitted by s. 2, *ibid*. The proviso was as under:—

"Provided that in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of India shall always be consulted;" This amendment has been struck down by the Supreme Court in the case of Supreme Court Advocates-on-Record Association and another Vs. Union of India in its judgment dated 16-10-2015, AIR 2016 SC 117.

4. Subs. by s. 2, *ibid*, for "provided further that" This amendment has been struck down by the Supreme Court in the Supreme Court Advocates-on-Record Association and another Vs Union of India judgment dated 16-10-2015, AIR 2016 SC 117.

THE CONSTITUTION OF INDIA

(Part V.—The Union)

¹[(2A) The age of a Judge of the Supreme Court shall be determined by such authority and in such manner as Parliament may by law provide.]

(3) A person shall not be qualified for appointment as a Judge of the Supreme Court unless he is a citizen of India and—

- (a) has been for at least five years a Judge of a High Court or of two or more such Courts in succession; or
- (b) has been for at least ten years an advocate of a High Court or of two or more such Courts in succession; or
- (c) is, in the opinion of the President, a distinguished jurist.

Explanation I.—In this clause "High Court" means a High Court which exercises, or which at any time before the commencement of this Constitution exercised, jurisdiction in any part of the territory of India.

Explanation II.—In computing for the purpose of this clause the period during which a person has been an advocate, any period during which a person has held judicial office not inferior to that of a district judge after he became an advocate shall be included.

(4) A Judge of the Supreme Court shall not be removed from his office except by an order of the President passed after an address by each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting has been presented to the President in the same session for such removal on the ground of proved misbehaviour or incapacity.

(5) Parliament may by law regulate the procedure for the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of a Judge under clause (4).

(6) Every person appointed to be a Judge of the Supreme Court shall, before he enters upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

(7) No person who has held office as a Judge of the Supreme Court shall plead or act in any court or before any authority within the territory of India.

²[124A. **National Judicial Appointments Commission.**—(1) There shall be a Commission to be known as the National Judicial Appointments Commission consisting of the following, namely:—

1. Ins. by the Constitution (Fifteenth Amendment) Act, 1963, s. 2 (w.e.f. 5-10-1963).

2. Ins. by the Constitution (Ninety-ninth Amendment) Act, 2014, s. 3 (w.e.f. 13-4-2015). This amendment has been struck down by the Supreme Court in the case of Supreme Court Advocates-on-Record Association and another Vs Union of India in its judgment dated 16-10-2015, AIR 2016 SC 117.

THE CONSTITUTION OF INDIA

(Part V.—The Union)

(a) the Chief Justice of India, Chairperson, *ex officio*;

(b) two other senior Judges of the Supreme Court next to the Chief Justice of India—Members, *ex officio*;

(c) the Union Minister in charge of Law and Justice—Member, *ex officio*;

(d) two eminent persons to be nominated by the committee consisting of the Prime Minister, the Chief Justice of India and the Leader of Opposition in the House of the People or where there is no such Leader of Opposition, then, the Leader of single largest Opposition Party in the House of the People—Members:

Provided that one of the eminent person shall be nominated from amongst the persons belonging to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, Minorities or Women:

Provided further that an eminent person shall be nominated for a period of three years and shall not be eligible for renomination.

(2) No act or proceedings of the National Judicial Appointments Commission shall be questioned or be invalidated merely on the ground of the existence of any vacancy or defect in the constitution of the Commission.

124B. Functions of Commission.—It shall be the duty of the National Judicial Appointments Commission to—

(a) recommend persons for appointment as Chief Justice of India, Judges of the Supreme Court, Chief Justices of High Courts and other Judges of High Courts;

(b) recommend transfer of Chief Justices and other Judges of High Courts from one High Court to any other High Court; and

(c) ensure that the person recommended is of ability and integrity.

124C. Power of Parliament to make law.—Parliament may, by law, regulate the procedure for the appointment of Chief Justice of India and other Judges of the Supreme Court and Chief Justices and other Judges of High Courts and empower the Commission to lay down by regulations the procedure for the discharge of its functions, the manner of selection of persons for appointment and such other matters as may be considered necessary by it.]

125. Salaries, etc., of Judges.—¹[(1) There shall be paid to the Judges of the Supreme Court such salaries as may be determined by Parliament by law and, until provision in that behalf is so made, such salaries as are specified in the Second Schedule.]

(2) Every Judge shall be entitled to such privileges and allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such privileges, allowances and rights as are specified in the Second Schedule:

1. Subs. by the Constitution (Fifty-fourth Amendment) Act, 1986, s. 2, for cl. (1) (w.e.f. 1-4-1986).

(Part V.—The Union)

Provided that neither the privileges nor the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.

126. Appointment of acting Chief Justice.—When the office of Chief Justice of India is vacant or when the Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other Judges of the Court as the President may appoint for the purpose.

127. Appointment of *ad hoc* Judges.—(1) If at any time there should not be a quorum of the Judges of the Supreme Court available to hold or continue any session of the Court, ¹[the National Judicial Appointments Commission on a reference made to it by the Chief Justice of India, may with the previous consent of the President] and after consultation with the Chief Justice of the High Court concerned, request in writing the attendance at the sittings of the Court, as an *ad hoc* Judge, for such period as may be necessary, of a Judge of a High Court duly qualified for appointment as a Judge of the Supreme Court to be designated by the Chief Justice of India.

(2) It shall be the duty of the Judge who has been so designated, in priority to other duties of his office, to attend the sittings of the Supreme Court at the time and for the period for which his attendance is required, and while so attending he shall have all the jurisdiction, powers and privileges, and shall discharge the duties, of a Judge of the Supreme Court.

128. Attendance of retired Judges at sittings of the Supreme Court.—Notwithstanding anything in this Chapter, ²[the National Judicial Appointments Commission] may at any time, with the previous consent of the President, request any person who has held the office of a Judge of the Supreme Court or of the Federal Court ³[or who has held the office of a Judge of a High Court and is duly qualified for appointment as a Judge of the Supreme Court] to sit and act as a Judge of the Supreme Court, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that Court:

-
1. Subs. by the Constitution (Ninety-ninth Amendment) Act, 2014, s. 4, for "the Chief Justice of India may, with the previous consent of the President" (w.e.f. 13-4-2015). This amendment has been struck down by the Supreme Court in the case of Supreme Court Advocates-on-Record Association and another vs. Union of India in its judgment dated 16-10-2015, AIR 2016 SC 117.
 2. Subs. by s. 5, *ibid.*, for "the Chief Justice of India" (w.e.f. 13-4-2015). This amendment has been struck down by the Supreme Court in the case of Supreme Court Advocates-on-Record Association and another Vs. Union of India in its judgment dated 16-10-2015, AIR 2016 SC 117.
 3. Ins. by the Constitution (Fifteenth Amendment) Act, 1963, s. 3 (w.e.f. 5-10-1963).

(Part V.—The Union)

Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a Judge of that Court unless he consents so to do.

129. Supreme Court to be a court of record.—The Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.

130. Seat of Supreme Court.—The Supreme Court shall sit in Delhi or in such other place or places, as the Chief Justice of India may, with the approval of the President, from time to time, appoint.

131. Original jurisdiction of the Supreme Court.—Subject to the provisions of this Constitution, the Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute—

- (a) between the Government of India and one or more States; or
- (b) between the Government of India and any State or States on one side and one or more other States on the other; or
- (c) between two or more States,

if and in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends:

¹[Provided that the said jurisdiction shall not extend to a dispute arising out of any treaty, agreement, covenant, engagement, *sandad* or other similar instrument which, having been entered into or executed before the commencement of this Constitution, continues in operation after such commencement, or which provides that the said jurisdiction shall not extend to such a dispute.]

²[**131A. Exclusive jurisdiction of the Supreme Court in regard to questions as to constitutional validity of Central laws.**.—Omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 4 (w.e.f. 13-4-1978).]

132. Appellate jurisdiction of the Supreme Court in appeals from High Courts in certain cases.—(1) An appeal shall lie to the Supreme Court from any judgment, decree or final order of a High Court in the territory of India, whether in a civil, criminal or other proceeding, ³[if the High Court certifies under article 134A] that the case involves a substantial question of law as to the interpretation of this Constitution.

-
1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 5, for the proviso (w.e.f. 1-11-1956).
 2. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 23 (w.e.f. 1-2-1977).
 3. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 17, for "if the High Court certifies" (w.e.f. 1-8-1979).

(Part V.—The Union)

¹(2)* * * *

(3) Where such a certificate is given,^{2***} any party in the case may appeal to the Supreme Court on the ground that any such question as aforesaid has been wrongly decided^{2***}.

Explanation.—For the purposes of this article, the expression “final order” includes an order deciding an issue which, if decided in favour of the appellant, would be sufficient for the final disposal of the case.

133. Appellate jurisdiction of the Supreme Court in appeals from High Courts in regard to civil matters.—³[(1) An appeal shall lie to the Supreme Court from any judgment, decree or final order in a civil proceeding of a High Court in the territory of India ⁴[if the High Court certifies under article 134A—]

(a) that the case involves a substantial question of law of general importance; and

(b) that in the opinion of the High Court the said question needs to be decided by the Supreme Court.]

(2) Notwithstanding anything in article 132, any party appealing to the Supreme Court under clause (1) may urge as one of the grounds in such appeal that substantial question of law as to the interpretation of this Constitution has been wrongly decided.

(3) Notwithstanding anything in this article, no appeal shall, unless Parliament by law otherwise provides, lie to the Supreme Court from the judgment, decree or final order of one Judge of a High Court.

134. Appellate jurisdiction of the Supreme Court in regard to criminal matters.—(1) An appeal shall lie to the Supreme Court from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India if the High Court—

(a) has on appeal reversed an order of acquittal of an accused person and sentenced him to death; or

(b) has withdrawn for trial before itself any case from any court subordinate to its authority and has in such trial convicted the accused person and sentenced him to death; or

(c)⁵[certifies under article 134A] that the case is a fit one for appeal to the Supreme Court:

1. Cl. (2) omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 17, for “if the High Court certifies” (w.e.f. 1-8-1979).

2. Certain words omitted by s. 17, *ibid.* (w.e.f. 1-8-1979).

3. Subs. by the Constitution (Thirty-ninth Amendment) Act, 1972, s. 2, for cl. (1) (w.e.f. 27-2-1973).

4. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 18, for “if the High Court certifies.” (w.e.f. 1-8-1979).

5. Subs. by s. 19, *ibid.*, for “certifies” (w.e.f. 1-8-1979).

(Part V.—The Union)

Provided that an appeal under sub-clause (c) shall lie subject to such provisions as may be made in that behalf under clause (1) of article 145 and to such conditions as the High Court may establish or require.

(2) Parliament may by law confer on the Supreme Court any further powers to entertain and hear appeals from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India subject to such conditions and limitations as may be specified in such law.

¹[134A. Certificate for appeal to the Supreme Court.]—Every High Court, passing or making a judgment, decree, final order, or sentence, referred to in clause (1) of article 132 or clause (1) of article 133, or clause (1) of article 134,—

(a) may, if it deems fit so to do, on its own motion; and

(b) shall, if an oral application is made, by or on behalf of the party aggrieved, immediately after the passing or making of such judgment, decree, final order or sentence,

determine, as soon as may be after such passing or making, the question whether a certificate of the nature referred to in clause (1) of article 132, or clause (1) of article 133 or, as the case may be, sub-clause (c) of clause (1) of article 134, may be given in respect of that case.]

135. Jurisdiction and powers of the Federal Court under existing law to be exercisable by the Supreme Court.—Until Parliament by law otherwise provides, the Supreme Court shall also have jurisdiction and powers with respect to any matter to which the provisions of article 133 or article 134 do not apply if jurisdiction and powers in relation to that matter were exercisable by the Federal Court immediately before the commencement of this Constitution under any existing law.

136. Special leave to appeal by the Supreme Court.—(1) Notwithstanding anything in this Chapter, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India.

(2) Nothing in clause (1) shall apply to any judgment, determination, sentence or order passed or made by any court or tribunal constituted by or under any law relating to the Armed Forces.

137. Review of judgments or orders by the Supreme Court.—Subject to the provisions of any law made by Parliament or any rules made under article 145, the Supreme Court shall have power to review any judgment pronounced or order made by it.

1. Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 20 (w.e.f. 1-8-1979).

(Part V.—The Union)

138. Enlargement of the jurisdiction of the Supreme Court.—(1) The Supreme Court shall have such further jurisdiction and powers with respect to any of the matters in the Union List as Parliament may by law confer.

(2) The Supreme Court shall have such further jurisdiction and powers with respect to any matter as the Government of India and the Government of any State may by special agreement confer, if Parliament by law provides for the exercise of such jurisdiction and powers by the Supreme Court.

139. Conferment on the Supreme Court of powers to issue certain writs.—Parliament may by law confer on the Supreme Court power to issue directions, orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, or any of them, for any purposes other than those mentioned in clause (2) of article 32.

¹[**139A. Transfer of certain cases.**—²[(1) Where cases involving the same or substantially the same questions of law are pending before the Supreme Court and one or more High Courts or before two or more High Courts and the Supreme Court is satisfied on its own motion or on an application made by the Attorney-General of India or by a party to any such case that such questions are substantial questions of general importance, the Supreme Court may withdraw the case or cases pending before the High Court or the High Courts and dispose of all the cases itself:

Provided that the Supreme Court may after determining the said questions of law return any case so withdrawn together with a copy of its judgment on such questions to the High Court from which the case has been withdrawn, and the High Court shall on receipt thereof, proceed to dispose of the case in conformity with such judgment.]

(2) The Supreme Court may, if it deems it expedient so to do for the ends of justice, transfer any case, appeal or other proceedings pending before any High Court to any other High Court.]

140. Ancillary powers of the Supreme Court.—Parliament may by law make provision for conferring upon the Supreme Court such supplemental powers not inconsistent with any of the provisions of this Constitution as may appear to be necessary or desirable for the purpose of enabling the Court more effectively to exercise the jurisdiction conferred upon it by or under this Constitution.

1. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 24 (w.e.f. 1-2-1977).
 2. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 21, for cl. (1) (w.e.f. 1-8-1979).

(Part V.—The Union)

141. Law declared by Supreme Court to be binding on all courts.—The law declared by the Supreme Court shall be binding on all courts within the territory of India.

142. Enforcement of decrees and orders of the Supreme Court and orders as to discovery, etc.—(1) The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order¹ prescribe.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Supreme Court shall, as respects the whole of the territory of India, have all and every power to make any order for the purpose of securing the attendance of any person, the discovery or production of any documents, or the investigation or punishment of any contempt of itself.

143. Power of the President to consult the Supreme Court.—(1) If at any time it appears to the President that a question of law or fact has arisen, or is likely to arise, which is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the question to that Court for consideration and the Court may, after such hearing as it thinks fit, report to the President its opinion thereon.

(2) The President may, notwithstanding anything in ^{2***} the proviso to article 131, refer a dispute of the kind mentioned in the ³[said proviso] to the Supreme Court for opinion and the Supreme Court shall, after such hearing as it thinks fit, report to the President its opinion thereon.

144. Civil and judicial authorities to act in aid of the Supreme Court.—All authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court.

⁴[**144A. [Special provisions as to disposal of questions relating to constitutional validity of laws.]**—Omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 5 (w.e.f. 13-4-1978).]

145. Rules of Court, etc.—(1) Subject to the provisions of any law made by Parliament, the Supreme Court may from time to time, with the approval of the President, make rules for regulating generally the practice and procedure of the Court including—

(a) rules as to the persons practising before the Court;

1. See the Supreme Court (Decrees and Orders) Enforcement Order, 1954 (C.O. 47).

2. The words, brackets and figure "clause (i) of" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

3. Subs. by s. 29 and Sch., *ibid.*, for "said clause" (w.e.f. 1-11-1956).

4. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 25 (w.e.f. 1-2-1977).

THE CONSTITUTION OF INDIA

(Part V.—The Union)

(b) rules as to the procedure for hearing appeals and other matters pertaining to appeals including the time within which appeals to the Court are to be entered;

(c) rules as to the proceedings in the Court for the enforcement of any of the rights conferred by Part III;

¹[(cc) rules as to the proceedings in the Court under ²[article 139A];]

(d) rules as to the entertainment of appeals under sub-clause (c) of clause (1) of article 134;

(e) rules as to the conditions subject to which any judgment pronounced or order made by the Court may be reviewed and the procedure for such review including the time within which applications to the Court for such review are to be entered;

(f) rules as to the costs of and incidental to any proceedings in the Court and as to the fees to be charged in respect of proceedings therein;

(g) rules as to the granting of bail;

(h) rules as to stay of proceedings;

(i) rules providing for the summary determination of any appeal which appears to the Court to be frivolous or vexatious or brought for the purpose of delay;

(j) rules as to the procedure for inquiries referred to in clause (1) of article 317.

(2) Subject to the ³[provisions of ^{4***} clause (3)], rules made under this article may fix the minimum number of Judges who are to sit for any purpose, and may provide for the powers of single Judges and Division Courts.

(3) ⁵[^{4***}The minimum number] of Judges who are to sit for the purpose of deciding any case involving a substantial question of law as to the interpretation of this Constitution or for the purpose of hearing any reference under article 143 shall be five:

-
1. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 26 (w.e.f. 1-2-1977).
 2. Subs. by the Constitution (Forty-third Amendment) Act, 1977, s. 6, for "articles 131A and 139A" (w.e.f. 13-4-1978).
 3. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 26, for "provisions of clause (3)" (w.e.f. 1-2-1977).
 4. Certain words omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 6 (w.e.f. 13-4-1978).
 5. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 26, for "The minimum number" (w.e.f. 1-2-1977).

(Part V.—The Union)

Provided that, where the Court hearing an appeal under any of the provisions of this Chapter other than article 132 consists of less than five Judges and in the course of the hearing of the appeal the Court is satisfied that the appeal involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the appeal, such Court shall refer the question for opinion to a Court constituted as required by this clause for the purpose of deciding any case involving such a question and shall on receipt of the opinion dispose of the appeal in conformity with such opinion.

(4) No judgment shall be delivered by the Supreme Court save in open Court, and no report shall be made under article 143 save in accordance with an opinion also delivered in open Court.

(5) No judgment and no such opinion shall be delivered by the Supreme Court save with the concurrence of a majority of the Judges present at the hearing of the case, but nothing in this clause shall be deemed to prevent a Judge who does not concur from delivering a dissenting judgment or opinion.

146. Officers and servants and the expenses of the Supreme Court.—

(1) Appointments of officers and servants of the Supreme Court shall be made by the Chief Justice of India or such other Judge or officer of the Court as he may direct:

Provided that the President may by rule require that in such cases as may be specified in the rule, no person not already attached to the Court shall be appointed to any office connected with the Court, save after consultation with the Union Public Service Commission.

(2) Subject to the provisions of any law made by Parliament, the conditions of service of officers and servants of the Supreme Court shall be such as may be prescribed by rules made by the Chief Justice of India or by some other Judge or officer of the Court authorised by the Chief Justice of India to make rules for the purpose:

Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the President.

(3) The administrative expenses of the Supreme Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the Court, shall be charged upon the Consolidated Fund of India, and any fees or other moneys taken by the Court shall form part of that Fund.

147. Interpretation.—In this Chapter and in Chapter V of Part VI, references to any substantial question of law as to the interpretation of this Constitution shall be construed as including references to any substantial question of law as to the interpretation of the Government of India Act, 1935 (including any enactment amending or supplementing that Act), or of any Order in Council or order made thereunder, or of the Indian Independence Act, 1947, or of any order made thereunder.

CHAPTER V.—COMPTROLLER AND AUDITOR-GENERAL OF INDIA

148. Comptroller and Auditor-General of India.—(1) There shall be a Comptroller and Auditor-General of India who shall be appointed by the President by warrant under his hand and seal and shall only be removed from office in like manner and on the like grounds as a Judge of the Supreme Court.

(2) Every person appointed to be the Comptroller and Auditor-General of India shall, before he enters upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

(3) The salary and other conditions of service of the Comptroller and Auditor-General shall be such as may be determined by Parliament by law and, until they are so determined, shall be as specified in the Second Schedule:

Provided that neither the salary of a Comptroller and Auditor-General nor his rights in respect of leave of absence, pension or age of retirement shall be varied to his disadvantage after his appointment.

(4) The Comptroller and Auditor-General shall not be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office.

(5) Subject to the provisions of this Constitution and of any law made by Parliament, the conditions of service of persons serving in the Indian Audit and Accounts Department and the administrative powers of the Comptroller and Auditor-General shall be such as may be prescribed by rules made by the President after consultation with the Comptroller and Auditor-General.

(6) The administrative expenses of the office of the Comptroller and Auditor-General, including all salaries, allowances and pensions payable to or in respect of persons serving in that office, shall be charged upon the Consolidated Fund of India.

149. Duties and powers of the Comptroller and Auditor-General.—

The Comptroller and Auditor-General shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States and of any other authority or body as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States as were conferred on or exercisable by the Auditor-General of India immediately before the commencement of this Constitution in relation to the accounts of the Dominion of India and of the Provinces respectively.

¹[**150. Form of accounts of the Union and of the States.**—The accounts of the Union and of the States shall be kept in such form as the President may, ²[on the advice of] the Comptroller and Auditor-General of India, prescribe.]

151. Audit reports.—(1) The reports of the Comptroller and Auditor-General of India relating to the accounts of the Union shall be submitted to the President, who shall cause them to be laid before each House of Parliament.

(2) The reports of the Comptroller and Auditor-General of India relating to the accounts of a State shall be submitted to the Governor ^{3***} of the State, who shall cause them to be laid before the Legislature of the State.

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 27, for art.150 (w.e.f. 1-4-1977).

2. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 22, for "after consultation with" (w.e.f. 20-6-1979).

3. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

PART VI

THE STATES^{1***}

CHAPTER I.—GENERAL

152. Definition.—In this Part, unless the context otherwise requires, the expression “State”²[does not include the State of Jammu and Kashmir].

CHAPTER II.—THE EXECUTIVE

The Governor

153. Governors of States.—There shall be a Governor for each State:

³[Provided that nothing in this article shall prevent the appointment of the same person as Governor for two or more States.]

154. Executive power of State.—(1) The executive power of the State shall be vested in the Governor and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution.

(2) Nothing in this article shall—

(a) be deemed to transfer to the Governor any functions conferred by any existing law on any other authority; or

(b) prevent Parliament or the Legislature of the State from conferring by law functions on any authority subordinate to the Governor.

155. Appointment of Governor.—The Governor of a State shall be appointed by the President by warrant under his hand and seal.

156. Term of office of Governor.—(1) The Governor shall hold office during the pleasure of the President.

(2) The Governor may, by writing under his hand addressed to the President, resign his office.

(3) Subject to the foregoing provisions of this article, a Governor shall hold office for a term of five years from the date on which he enters upon his office:

1. The words "IN PART A OF THE FIRST SCHEDEULE" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. Subs. by s. 29 and Sch. *ibid.*, for "means a State specified in Part A of the First Schedule" (w.e.f. 1-11-1956).

3. Added by s. 6, *ibid.* (w.e.f. 1-11-1956).

Provided that a Governor shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

157. Qualifications for appointment as Governor.—No person shall be eligible for appointment as Governor unless he is a citizen of India and has completed the age of thirty-five years.

158. Conditions of Governor's office.—(1) The Governor shall not be a member of either House of Parliament or of a House of the Legislature of any State specified in the First Schedule, and if a member of either House of Parliament or of a House of the Legislature of any such State be appointed Governor, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as Governor.

(2) The Governor shall not hold any other office of profit.

(3) The Governor shall be entitled without payment of rent to the use of his official residences and shall be also entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule.

¹[(3A) Where the same person is appointed as Governor of two or more States, the emoluments and allowances payable to the Governor shall be allocated among the States in such proportion as the President may by order determine.]

(4) The emoluments and allowances of the Governor shall not be diminished during his term of office.

159. Oath or affirmation by the Governor.—Every Governor and every person discharging the functions of the Governor shall, before entering upon his office, make and subscribe in the presence of the Chief Justice of the High Court exercising jurisdiction in relation to the State, or, in his absence, the senior most Judge of that Court available, an oath or affirmation in the following form, that is to say—

“I, A. B., do swear in the name of God that I will faithfully execute the solemnly affirm

office of Governor (or discharge the functions of the Governor) of(*name of the State*) and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of(*name of the State*).”.

1. Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 7 (w.e.f. 1-11-1956).

160. Discharge of the functions of the Governor in certain contingencies.—The President may make such provision as he thinks fit for the discharge of the functions of the Governor of a State in any contingency not provided for in this Chapter.

161. Power of Governor to grant pardons, etc., and to suspend, remit or commute sentences in certain cases.—The Governor of a State shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the State extends.

162. Extent of executive power of State.—Subject to the provisions of this Constitution, the executive power of a State shall extend to the matters with respect to which the Legislature of the State has power to make laws:

Provided that in any matter with respect to which the Legislature of a State and Parliament have power to make laws, the executive power of the State shall be subject to, and limited by, the executive power expressly conferred by this Constitution or by any law made by Parliament upon the Union or authorities thereof.

Council of Ministers

163. Council of Ministers to aid and advise Governor.—(1) There shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions, except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion.

(2) If any question arises whether any matter is or is not a matter as respects which the Governor is by or under this Constitution required to act in his discretion, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion.

(3) The question whether any, and if so what, advice was tendered by Ministers to the Governor shall not be inquired into in any court.

164. Other provisions as to Ministers.—(1) The Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister, and the Ministers shall hold office during the pleasure of the Governor:

THE CONSTITUTION OF INDIA

(Part VI.—The States)

Provided that in the States of ¹[Chhattisgarh, Jharkhand], Madhya Pradesh and ²[Odisha] there shall be a Minister in charge of tribal welfare who may in addition be in charge of the welfare of the Scheduled Castes and backward classes or any other work.

³[(1A) The total number of Ministers, including the Chief Minister, in the Council of Ministers in a State shall not exceed fifteen per cent. of the total number of members of the Legislative Assembly of that State:

Provided that the number of Ministers, including the Chief Minister in a State shall not be less than twelve:

Provided further that where the total number of Ministers including the Chief Minister in the Council of Ministers in any State at the commencement of the Constitution (Ninety-first Amendment) Act, 2003 exceeds the said fifteen per cent. or the number specified in the first proviso, as the case may be, then the total number of Ministers in that State shall be brought in conformity with the provisions of this clause within six months from such date⁴ as the President may by public notification appoint.

(1B) A member of the Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall also be disqualified to be appointed as a Minister under clause (1) for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or where he contests any election to the Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council, as the case may be, before the expiry of such period, till the date on which he is declared elected, whichever is earlier.]

(2) The Council of Ministers shall be collectively responsible to the Legislative Assembly of the State.

(3) Before a Minister enters upon his office, the Governor shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

1. Subs. by the Constitution (Ninety-fourth Amendment) Act, 2006, s. 2, for "Bihar" (w.e.f. 12-6-2006).

2. Subs. by the Orissa (Alteration of Name) Act, 2011 (15 of 2011), s. 4, for "Orissa" (w.e.f. 1-11-2011).

3. Ins. by the Constitution (Ninety-first Amendment) Act, 2003, s. 3 (w.e.f. 1-1-2004).

4. 7-1-2004, *vide* notification number S.O. 21(E), dated 7-1-2004.

THE CONSTITUTION OF INDIA

(Part VI.—The States)

(4) A Minister who for any period of six consecutive months is not a member of the Legislature of the State shall at the expiration of that period cease to be a Minister.

(5) The salaries and allowances of Ministers shall be such as the Legislature of the State may from time to time by law determine and, until the Legislature of the State so determines, shall be as specified in the Second Schedule.

The Advocate-General for the State

165. Advocate-General for the State.—(1) The Governor of each State shall appoint a person who is qualified to be appointed a Judge of a High Court to be Advocate-General for the State.

(2) It shall be the duty of the Advocate-General to give advice to the Government of the State upon such legal matters, and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the Governor, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force.

(3) The Advocate-General shall hold office during the pleasure of the Governor, and shall receive such remuneration as the Governor may determine.

Conduct of Government Business

166. Conduct of Business of the Government of a State.—(1) All executive action of the Government of a State shall be expressed to be taken in the name of the Governor.

(2) Orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by the Governor, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor.

(3) The Governor shall make rules for the more convenient transaction of the business of the Government of the State, and for the allocation among Ministers of the said business in so far as it is not business with respect to which the Governor is by or under this Constitution required to act in his discretion.

THE CONSTITUTION OF INDIA

(Part VI.—The States)

¹(4)*

*

*

*

*

167. Duties of Chief Minister as respects the furnishing of information to Governor, etc.—It shall be the duty of the Chief Minister of each State—

(a) to communicate to the Governor of the State all decisions of the Council of Ministers relating to the administration of the affairs of the State and proposals for legislation;

(b) to furnish such information relating to the administration of the affairs of the State and proposals for legislation as the Governor may call for; and

(c) if the Governor so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

CHAPTER III.—THE STATE LEGISLATURE

General

168. Constitution of Legislatures in States.—(1) For every State there shall be a Legislature which shall consist of the Governor, and—

(a) in the States of ^{2***} ³[Andhra Pradesh], Bihar, ^{4***} ⁵[Madhya Pradesh], ^{6***} ⁷[Maharashtra], ⁸[Karnataka], ^{9***}

1. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 28 (w.e.f. 3-1-1977) and omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 23 (w.e.f. 20-6-1979).
2. The words "Andhra Pradesh," omitted by the Andhra Pradesh Legislative Council (Abolition) Act, 1985 (34 of 1985), s. 4 (w.e.f. 1-6-1985).
3. Ins. by the Andhra Pradesh Legislative Council Act, 2005 (1 of 2006), s. 3 (w.e.f. 30-3-2007).
4. The word "Bombay" omitted by the Bombay Reorganisation Act, 1960 (11 of 1960) s. 20 (w.e.f. 1-5-1960).
5. Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 8 (w.e.f. 1-11-1956).
6. The words "Tamil Nadu," omitted by the Tamil Nadu Legislative Council (Abolition) Act, 1986 (40 of 1986), s. 4 (w.e.f. 1-11-1986).
7. Ins. by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 20 (w.e.f. 1-5-1960).
8. Subs. by the Mysore State (Alteration of Name) Act, 1973 (31 of 1973), s. 4, for "Mysore" (w.e.f. 1-11-1973), which was inserted by the Constitution (Seventh Amendment) Act, 1956, s. 8(1) (w.e.f. 1-11-1956).
9. The word "Punjab," omitted by the Punjab Legislative Council (Abolition) Act, 1969 (46 of 1969), s. 4 (w.e.f. 7-1-1970).

(Part VI.—The States)

¹[²[Tamil Nadu, Telangana]] ³[and Uttar Pradesh], two Houses;

(b) in other States, one House.

(2) Where there are two Houses of the Legislature of a State, one shall be known as the Legislative Council and the other as the Legislative Assembly, and where there is only one House, it shall be known as the Legislative Assembly.

169. Abolition or creation of Legislative Councils in States.—(1)

Notwithstanding anything in article 168, Parliament may by law provide for the abolition of the Legislative Council of a State having such a Council or for the creation of such a Council in a State having no such Council, if the Legislative Assembly of the State passes a resolution to that effect by a majority of the total membership of the Assembly and by a majority of not less than two-thirds of the members of the Assembly present and voting.

(2) Any law referred to in clause (1) shall contain such provisions for the amendment of this Constitution as may be necessary to give effect to the provisions of the law and may also contain such supplemental, incidental and consequential provisions as Parliament may deem necessary.

(3) No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 368.

⁴[170. Composition of the Legislative Assemblies.—(1)] Subject to the provisions of article 333, the Legislative Assembly of each State shall consist of not more than five hundred, and not less than sixty, members chosen by direct election from territorial constituencies in the State.

(2) For the purposes of clause (1), each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the State.

2. The words "Tamil Nadu" ins. by the Tamil Nadu Legislative Council Act, 2010 (16 of 2010), s. 3 (date to be notified).
2. Subs. by the Andhra Pradesh Reorganisation Act, 2014 (6 of 2014), s. 96, for "Tamil Nadu" (w.e.f. 1-6-2014).
3. Subs. by the West Bengal Legislative Council (Abolition) Act, 1969 (20 of 1969), s. 4 for "Uttar Pradesh and West Bengal" (w.e.f. 1-8-1969).
4. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 9, for art. 170 (w.e.f. 1-11-1956).

¹[*Explanation.*—In this clause, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published:

Provided that the reference in this *Explanation* to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year ²[2026] have been published, be construed as a reference to the ³[2001] census.]

(3) Upon the completion of each census, the total number of seats in the Legislative Assembly of each State and the division of each State into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine:

Provided that such readjustment shall not affect representation in the Legislative Assembly until the dissolution of the then existing Assembly:

⁴[Provided further that such readjustment shall take effect from such date as the President may, by order, specify and until such readjustment takes effect, any election to the Legislative Assembly may be held on the basis of the territorial constituencies existing before such readjustment:

Provided also that until the relevant figures for the first census taken after the year ²[2026] have been published, it shall not be necessary to ⁵[readjust—

- (i) the total number of seats in the Legislative Assembly of each State as readjusted on the basis of the 1971 census; and
 - (ii) the division of such State into territorial constituencies as may be readjusted on the basis of the ³[2001] census,
- under this clause.]

-
- 1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 29, for the *Explanation* (w.e.f. 3-1-1977).
 - 2. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 5, for "2000" (w.e.f. 21-2-2002).
 - 3. Subs. by the Constitution (Eighty-seventh Amendment) Act, 2003, s. 4, for "1991" (w.e.f. 22-6-2003). The figures "1991" were substituted for the original figures "1971" by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 5 (w.e.f. 21-2-2002).
 - 4. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 29 (w.e.f. 3-1-1977).
 - 5. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 5, for certain words (w.e.f. 21-2-2002).

171. Composition of the Legislative Councils.—(1) The total number of members in the Legislative Council of a State having such a Council shall not exceed ¹[one-third] of the total number of members in the Legislative Assembly of that State:

Provided that the total number of members in the Legislative Council of a State shall in no case be less than forty.

(2) Until Parliament by law otherwise provides, the composition of the Legislative Council of a State shall be as provided in clause (3).

(3) Of the total number of members of the Legislative Council of a State—

(a) as nearly as may be, one-third shall be elected by electorates consisting of members of municipalities, district boards and such other local authorities in the State as Parliament may by law specify;

(b) as nearly as may be, one-twelfth shall be elected by electorates consisting of persons residing in the State who have been for at least three years graduates of any university in the territory of India or have been for at least three years in possession of qualifications prescribed by or under any law made by Parliament as equivalent to that of a graduate of any such university;

(c) as nearly as may be, one-twelfth shall be elected by electorates consisting of persons who have been for at least three years engaged in teaching in such educational institutions within the State, not lower in standard than that of a secondary school, as may be prescribed by or under any law made by Parliament;

(d) as nearly as may be, one-third shall be elected by the members of the Legislative Assembly of the State from amongst persons who are not members of the Assembly;

(e) the remainder shall be nominated by the Governor in accordance with the provisions of clause (5).

(4) The members to be elected under sub-clauses (a), (b) and (c) of clause (3) shall be chosen in such territorial constituencies as may be prescribed

1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 10, for "one-fourth" (w.e.f. 1-11-1956).

THE CONSTITUTION OF INDIA

(Part VI.—The States)

by or under any law made by Parliament, and the elections under the said sub-clauses and under sub-clause (d) of the said clause shall be held in accordance with the system of proportional representation by means of the single transferable vote.

(5) The members to be nominated by the Governor under sub-clause (e) of clause (3) shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely:—

Literature, science, art, co-operative movement and social service.

172. Duration of State Legislatures.—(1) Every Legislative Assembly of every State, unless sooner dissolved, shall continue for¹[five years] from the date appointed for its first meeting and no longer and the expiration of the said period of¹[five years] shall operate as a dissolution of the Assembly:

Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

(2) The Legislative Council of a State shall not be subject to dissolution, but as nearly as possible one-third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law.

173. Qualification for membership of the State Legislature.—A person shall not be qualified to be chosen to fill a seat in the Legislature of a State unless he—

²[(a) is a citizen of India, and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule;]

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 30, for "five years" (w.e.f. 3-1-1977) and further subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 24, for "six years" (w.e.f. 6-9-1979).

2. Subs. by the Constitution (Sixteenth Amendment) Act, 1963, s. 4, for cl. (a) (w.e.f. 5-10-1963).

(b) is, in the case of a seat in the Legislative Assembly, not less than twenty-five years of age and, in the case of a seat in the Legislative Council, not less than thirty years of age; and

(c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

¹[174. Sessions of the State Legislature, prorogation and dissolution.]—(1) The Governor shall from time to time summon the House or each House of the Legislature of the State to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(2) The Governor may from time to time—

- (a) prorogue the House or either House;
- (b) dissolve the Legislative Assembly.]

175. Right of Governor to address and send messages to the House or Houses.—(1) The Governor may address the Legislative Assembly or, in the case of a State having a Legislative Council, either House of the Legislature of the State, or both Houses assembled together, and may for that purpose require the attendance of members.

(2) The Governor may send messages to the House or Houses of the Legislature of the State, whether with respect to a Bill then pending in the Legislature or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

176. Special address by the Governor.—(1) At the commencement of ²[the first session after each general election to the Legislative Assembly and at the commencement of the first session of each year], the Governor shall address the Legislative Assembly or, in the case of a State having a Legislative Council, both Houses assembled together and inform the Legislature of the causes of its summons.

(2) Provision shall be made by the rules regulating the procedure of the House or either House for the allotment of time for discussion of the matters referred to in such address ^{3***}.

1. Subs. by the Constitution (First Amendment) Act, 1951, s. 8, for art.174 (w.e.f. 18-6-1951).

2. Subs. by s. 9, *ibid.*, for "every session" (w.e.f. 18-6-1951).

3. The words "and for the precedence of such discussion over other business of the House" omitted by s. 9, *ibid.* (w.e.f. 18-6-1951).

177. Rights of Ministers and Advocate-General as respects the Houses.—Every Minister and the Advocate-General for a State shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly of the State or, in the case of a State having a Legislative Council, both Houses, and to speak in, and otherwise to take part in the proceedings of, any committee of the Legislature of which he may be named a member, but shall not, by virtue of this article, be entitled to vote.

Officers of the State Legislature

178. The Speaker and Deputy Speaker of the Legislative Assembly.—Every Legislative Assembly of a State shall, as soon as may be, choose two members of the Assembly to be respectively Speaker and Deputy Speaker thereof and, so often as the office of Speaker or Deputy Speaker becomes vacant, the Assembly shall choose another member to be Speaker or Deputy Speaker, as the case may be.

179. Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker.—A member holding office as Speaker or Deputy Speaker of an Assembly—

(a) shall vacate his office if he ceases to be a member of the Assembly;

(b) may at any time by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office; and

(c) may be removed from his office by a resolution of the Assembly passed by a majority of all the then members of the Assembly:

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

Provided further that, whenever the Assembly is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution.

180. Power of the Deputy Speaker or other person to perform the duties of the office of, or to act as, Speaker.—(1) While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker or, if the office of Deputy Speaker is also vacant, by such member of the Assembly as the Governor may appoint for the purpose.

(2) During the absence of the Speaker from any sitting of the Assembly the Deputy Speaker or, if he is also absent, such person as may be determined by the rules of procedure of the Assembly, or, if no such person is present, such other person as may be determined by the Assembly, shall act as Speaker.

181. The Speaker or the Deputy Speaker not to preside while a resolution for his removal from office is under consideration.—(1) At any sitting of the Legislative Assembly, while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside, and the provisions of clause (2) of article 180 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker or, as the case may be, the Deputy Speaker, is absent.

(2) The Speaker shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly while any resolution for his removal from office is under consideration in the Assembly and shall, notwithstanding anything in article 189, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

182. The Chairman and Deputy Chairman of the Legislative Council.—The Legislative Council of every State having such Council shall, as soon as may be, choose two members of the Council to be respectively Chairman and Deputy Chairman thereof and, so often as the office of Chairman or Deputy Chairman becomes vacant, the Council shall choose another member to be Chairman or Deputy Chairman, as the case may be.

183. Vacation and resignation of, and removal from, the offices of Chairman and Deputy Chairman.—A member holding office as Chairman or Deputy Chairman of a Legislative Council—

- (a) shall vacate his office if he ceases to be a member of the Council;
- (b) may at any time by writing under his hand addressed, if such member is the Chairman, to the Deputy Chairman, and if such member is the Deputy Chairman, to the Chairman, resign his office; and
- (c) may be removed from his office by a resolution of the Council passed by a majority of all the then members of the Council:

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

184. Power of the Deputy Chairman or other person to perform the duties of the office of, or to act as, Chairman.—(1) While the office of Chairman is vacant, the duties of the office shall be performed by the Deputy Chairman or, if the office of Deputy Chairman is also vacant, by such member of the Council as the Governor may appoint for the purpose.

(2) During the absence of the Chairman from any sitting of the Council the Deputy Chairman or, if he is also absent, such person as may be determined by the rules of procedure of the Council, or, if no such person is present, such other person as may be determined by the Council, shall act as Chairman.

185. The Chairman or the Deputy Chairman not to preside while a resolution for his removal from office is under consideration.—(1) At any sitting of the Legislative Council, while any resolution for the removal of the Chairman from his office is under consideration, the Chairman, or while any resolution for the removal of the Deputy Chairman from his office is under consideration, the Deputy Chairman, shall not, though he is present, preside, and the provisions of clause (2) of article 184 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Chairman or, as the case may be, the Deputy Chairman is absent.

(2) The Chairman shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Council while any resolution for his removal from office is under consideration in the Council and shall, notwithstanding anything in article 189, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

186. Salaries and allowances of the Speaker and Deputy Speaker and the Chairman and Deputy Chairman.—There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly, and to the Chairman and the Deputy Chairman of the Legislative Council, such salaries and allowances as may be respectively fixed by the Legislature of the State by law and, until provision in that behalf is so made, such salaries and allowances as are specified in the Second Schedule.

187. Secretariat of State Legislature.—(1) The House or each House of the Legislature of a State shall have a separate secretarial staff:

Provided that nothing in this clause shall, in the case of the Legislature of a State having a Legislative Council, be construed as preventing the creation of posts common to both Houses of such Legislature.

(2) The Legislature of a State may by law regulate the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the House or Houses of the Legislature of the State.

(3) Until provision is made by the Legislature of the State under clause (2), the Governor may, after consultation with the Speaker of the Legislative Assembly or the Chairman of the Legislative Council, as the case may be, make rules regulating the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the Assembly or the Council, and any rules so made shall have effect subject to the provisions of any law made under the said clause.

Conduct of Business

188. Oath or affirmation by members.—Every member of the Legislative Assembly or the Legislative Council of a State shall, before taking his seat, make and subscribe before the Governor, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

189. Voting in Houses, power of Houses to act notwithstanding vacancies and quorum.—(1) Save as otherwise provided in this Constitution, all questions at any sitting of a House of the Legislature of a State shall be determined by a majority of votes of the members present and voting, other than the Speaker or Chairman, or person acting as such.

The Speaker or Chairman, or person acting as such, shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(2) A House of the Legislature of a State shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Legislature of a State shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do sat or voted or otherwise took part in the proceedings.

¹[(3) Until the Legislature of the State by law otherwise provides, the quorum to constitute a meeting of a House of the Legislature of a State shall be ten members or one-tenth of the total number of members of the House, whichever is greater.

(4) If at any time during a meeting of the Legislative Assembly or the Legislative Council of a State there is no quorum, it shall be the duty of the Speaker or Chairman, or person acting as such, either to adjourn the House or to suspend the meeting until there is a quorum.]

1. Omitted by the Constitution (Forty-second Amendment) Act, 1976, s. 31 (date not notified). This amendment was omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 45 (w.e.f. 20-6-1979).

Disqualifications of Members

190. Vacation of seats.—(1) No person shall be a member of both Houses of the Legislature of a State and provision shall be made by the Legislature of the State by law for the vacation by a person who is chosen a member of both Houses of his seat in one house or the other.

(2) No person shall be a member of the Legislatures of two or more States specified in the First Schedule and if a person is chosen a member of the Legislatures of two or more such States, then, at the expiration of such period as may be specified in rules¹ made by the President, that person's seat in the Legislatures of all such States shall become vacant, unless he has previously resigned his seat in the Legislatures of all but one of the States.

(3) If a member of a House of the Legislature of a State—

(a) becomes subject to any of the disqualifications mentioned in²[clause (1) or clause (2) of article 191]; or

³[(b) resigns his seat by writing under his hand addressed to the speaker or the Chairman, as the case may be, and his resignation is accepted by the Speaker or the Chairman, as the case may be,]

his seat shall thereupon become vacant:

⁴[Provided that in the case of any resignation referred to in sub-clause (b), if from information received or otherwise and after making such inquiry as he thinks fit, the Speaker or the Chairman, as the case may be, is satisfied that such resignation is not voluntary or genuine, he shall not accept such resignation.]

(4) If for a period of sixty days a member of a House of the Legislature of a State is without permission of the House absent from all meetings thereof, the House may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the House is prorogued or is adjourned for more than four consecutive days.

1. See the Prohibition of Simultaneous Membership Rules, 1950 published by the Ministry of Law Notification number F. 46/50-C, dated the 26th January, 1950, Gazette of India, Extraordinary, p. 678.

2. Subs. by the Constitution (Fifty-second Amendment) Act, 1985, s. 4, for "clause (1) of article 191" (w.e.f. 1-3-1985).

3 Subs. by the Constitution (Thirty-third Amendment) Act, 1974, s. 3 (w.e.f. 19-5-1974).

4. Ins. by s. 3, *ibid.* (w.e.f. 19-5-1974).

191. Disqualifications for membership.—(1) A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly or Legislative Council of a State—

¹[(a) if he holds any office of profit under the Government of India or the Government of any State specified in the First Schedule, other than an office declared by the Legislature of the State by law not to disqualify its holder;]

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

(c) if he is an undischarged insolvent;

(d) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgment of allegiance or adherence to a foreign State;

(e) if he is so disqualified by or under any law made by Parliament.

²[Explanation.—For the purposes of this clause], a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State specified in the First Schedule by reason only that he is a Minister either for the Union or for such State.

³[(2) A person shall be disqualified for being a member of the Legislative Assembly or Legislative Council of a State if he is so disqualified under the Tenth Schedule.]

⁴[**192. Decision on questions as to disqualifications of members.**—(1) If any question arises as to whether a member of a House of the Legislature of a State has become subject to any of the disqualifications mentioned in clause (1) of article 191, the question shall be referred for the decision of the Governor and his decision shall be final.

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 32 to read as "(a) if he holds any such office of profit under the Government of India or the Government of any State specified in the First Schedule as is declared by Parliament by law to disqualify its holder" (date not notified). This amendment was omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 45 (w.e.f. 20-6-1979).
2. Subs. by the Constitution (Fifty-second Amendment) Act, 1985, s. 5, for "(2) For the purposes of this article" (w.e.f. 1-3-1985).
3. Ins. by s. 5, *ibid.* (w.e.f. 1-3-1985).
4. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 33, for art. 192 (w.e.f. 3-1-1977) and further subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 25, for art. 192 (w.e.f. 20-6-1979).

(2) Before giving any decision on any such question, the Governor shall obtain the opinion of the Election Commission and shall act according to such opinion.]

193. Penalty for sitting and voting before making oath or affirmation under article 188 or when not qualified or when disqualified.—If a person sits or votes as a member of the Legislative Assembly or the Legislative Council of a State before he has complied with the requirements of article 188, or when he knows that he is not qualified or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament or the Legislature of the State, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the State.

*Powers, Privileges and Immunities of State Legislatures
and their Members*

194. Powers, privileges, etc., of the Houses of Legislatures and of the members and committees thereof.—(1) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of the Legislature, there shall be freedom of speech in the Legislature of every State.

(2) No member of the Legislature of a State shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of a House of such a Legislature of any report, paper, votes or proceedings.

¹[(3) In other respects, the powers, privileges and immunities of a House of the Legislature of a State, and of the members and the committees of a House of such Legislature, shall be such as may from time to time be defined

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 34 to read as follows :

"(3) In other respects, the powers, privileges and immunities of a House of the Legislature of a State, and of the members and the committees of a House of such Legislature, shall be those of that House, and of its members and Committees, at the commencement of section 34 of the Constitution (Forty-second Amendment) Act, 1976, and as may be evolved by such House of the House of the People, and of its members and committees where such House is the Legislative Assembly and in accordance with those of the Council of States, and of its members and committees where such House is the Legislative Council." (date not notified). This amendment was omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 45 (w.e.f. 19-6-1979)."

by the Legislature by law, and, until so defined,¹ [shall be those of that House and of its members and committees immediately before the coming into force of section 26 of the Constitution (Forty-fourth Amendment) Act, 1978].

(4) The provisions of clauses (1), (2) and (3) shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise to take part in the proceedings of, a House of the Legislature of a State or any committee thereof as they apply in relation to members of that Legislature.

195. Salaries and allowances of members.—Members of the Legislative Assembly and the Legislative Council of a State shall be entitled to receive such salaries and allowances as may from time to time be determined, by the Legislature of the State by law and, until provision in that respect is so made, salaries and allowances at such rates and upon such conditions as were immediately before the commencement of this Constitution applicable in the case of members of the Legislative Assembly of the corresponding Province.

Legislative Procedure

196. Provisions as to introduction and passing of Bills.—(1) Subject to the provisions of articles 198 and 207 with respect to Money Bills and other financial Bills, a Bill may originate in either House of the Legislature of a State which has a Legislative Council.

(2) Subject to the provisions of articles 197 and 198, a Bill shall not be deemed to have been passed by the Houses of the Legislature of a State having a Legislative Council unless it has been agreed to by both Houses, either without amendment or with such amendments only as are agreed to by both Houses.

(3) A Bill pending in the Legislature of a State shall not lapse by reason of the prorogation of the House or Houses thereof.

(4) A Bill pending in the Legislative Council of a State which has not been passed by the Legislative Assembly shall not lapse on a dissolution of the Assembly.

(5) A Bill which is pending in the Legislative Assembly of a State, or which having been passed by the Legislative Assembly is pending in the Legislative Council, shall lapse on a dissolution of the Assembly.

197. Restriction on powers of Legislative Council as to Bills other than Money Bills.—(1) If after a Bill has been passed by the Legislative Assembly of a State having a Legislative Council and transmitted to the Legislative Council—

1. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 26, for certain words (w.e.f. 20-6-1979).

THE CONSTITUTION OF INDIA

(Part VI.—The States)

(a) the Bill is rejected by the Council; or

(b) more than three months elapse from the date on which the Bill is laid before the Council without the Bill being passed by it; or

(c) the Bill is passed by the Council with amendments to which the Legislative Assembly does not agree;

the Legislative Assembly may, subject to the rules regulating its procedure, pass the Bill again in the same or in any subsequent session with or without such amendments, if any, as have been made, suggested or agreed to by the Legislative Council and then transmit the Bill as so passed to the Legislative Council.

(2) If after a Bill has been so passed for the second time by the Legislative Assembly and transmitted to the Legislative Council—

(a) the Bill is rejected by the Council; or

(b) more than one month elapses from the date on which the Bill is laid before the Council without the Bill being passed by it; or

(c) the Bill is passed by the Council with amendments to which the Legislative Assembly does not agree;

the Bill shall be deemed to have been passed by the Houses of the Legislature of the State in the form in which it was passed by the Legislative Assembly for the second time with such amendments, if any, as have been made or suggested by the Legislative Council and agreed to by the Legislative Assembly.

(3) Nothing in this article shall apply to a Money Bill.

198. Special procedure in respect of Money Bills.—(1) A Money Bill shall not be introduced in a Legislative Council.

(2) After a Money Bill has been passed by the Legislative Assembly of a State having a Legislative Council, it shall be transmitted to the Legislative Council for its recommendations, and the Legislative Council shall within a period of fourteen days from the date of its receipt of the Bill return the Bill to the Legislative Assembly with its recommendations, and the Legislative Assembly may thereupon either accept or reject all or any of the recommendations of the Legislative Council.

(3) If the Legislative Assembly accepts any of the recommendations of the Legislative Council, the Money Bill shall be deemed to have been passed by both Houses with the amendments recommended by the Legislative Council and accepted by the Legislative Assembly.

(4) If the Legislative Assembly does not accept any of the

recommendations of the Legislative Council, the Money Bill shall be deemed to have been passed by both Houses in the form in which it was passed by the Legislative Assembly without any of the amendments recommended by the Legislative Council.

(5) If a Money Bill passed by the Legislative Assembly and transmitted to the Legislative Council for its recommendations is not returned to the Legislative Assembly within the said period of fourteen days, it shall be deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by the Legislative Assembly.

199. Definition of “Money Bills”.—(1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely:—

(a) the imposition, abolition, remission, alteration or regulation of any tax;

(b) the regulation of the borrowing of money or the giving of any guarantee by the State, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the State;

(c) the custody of the Consolidated Fund or the Contingency Fund of the State, the payment of moneys into or the withdrawal of moneys from any such Fund;

(d) the appropriation of moneys out of the Consolidated Fund of the State;

(e) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of the State, or the increasing of the amount of any such expenditure;

(f) the receipt of money on account of the Consolidated Fund of the State or the public account of the State or the custody or issue of such money; or

(g) any matter incidental to any of the matters specified in sub-clauses (a) to (f).

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) If any question arises whether a Bill introduced in the Legislature of

a State which has a Legislative Council is a Money Bill or not, the decision of the Speaker of the Legislative Assembly of such State thereon shall be final.

(4) There shall be endorsed on every Money Bill when it is transmitted to the Legislative Council under article 198, and when it is presented to the Governor for assent under article 200, the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill.

200. Assent to Bills.—When a Bill has been passed by the Legislative Assembly of a State or, in the case of a State having a Legislative Council, has been passed by both Houses of the Legislature of the State, it shall be presented to the Governor and the Governor shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President:

Provided that the Governor may, as soon as possible after the presentation to him of the Bill for assent, return the Bill if it is not a Money Bill together with a message requesting that the House or Houses will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and, when a Bill is so returned, the House or Houses shall reconsider the Bill accordingly, and if the Bill is passed again by the House or Houses with or without amendment and presented to the Governor for assent, the Governor shall not withhold assent therefrom:

Provided further that the Governor shall not assent to, but shall reserve for the consideration of the President, any Bill which in the opinion of the Governor would, if it became law, so derogate from the powers of the High Court as to endanger the position which that Court is by this Constitution designed to fill.

201. Bills reserved for consideration.—When a Bill is reserved by a Governor for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom:

Provided that, where the Bill is not a Money Bill, the President may direct the Governor to return the Bill to the House or, as the case may be, the Houses of the Legislature of the State together with such a message as is mentioned in the first proviso to article 200 and, when a Bill is so returned, the House or Houses shall reconsider it accordingly within a period of six months from the date of receipt of such message and, if it is again passed by the House

or Houses with or without amendment, it shall be presented again to the President for his consideration.

Procedure in Financial Matters

202. Annual financial statement.—(1) The Governor shall in respect of every financial year cause to be laid before the House or Houses of the Legislature of the State a statement of the estimated receipts and expenditure of the State for that year, in this Part referred to as the “annual financial statement”.

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

(a) the sums required to meet expenditure described by this Constitution as expenditure charged upon the Consolidated Fund of the State; and

(b) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of the State,

and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged on the Consolidated Fund of each State—

(a) the emoluments and allowances of the Governor and other expenditure relating to his office;

(b) the salaries and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly and, in the case of a State having a Legislative Council, also of the Chairman and the Deputy Chairman of the Legislative Council;

(c) debt charges for which the State is liable including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt;

(d) expenditure in respect of the salaries and allowances of Judges of any High Court;

(e) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal;

(f) any other expenditure declared by this Constitution, or by the Legislature of the State by law, to be so charged.

203. Procedure in Legislature with respect to estimates.—(1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of a State shall not be submitted to the vote of the Legislative Assembly,

but nothing in this clause shall be construed as preventing the discussion in the Legislature of any of those estimates.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the Legislative Assembly, and the Legislative Assembly shall have power to assent, or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the Governor.

204. Appropriation Bills.—(1) As soon as may be after the grants under article 203 have been made by the Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the State of all moneys required to meet—

(a) the grants so made by the Assembly; and

(b) the expenditure charged on the Consolidated Fund of the State but not exceeding in any case the amount shown in the statement previously laid before the House or Houses.

(2) No amendment shall be proposed to any such Bill in the House or either House of the Legislature of the State which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of the State, and the decision of the person presiding as to whether an amendment is inadmissible under this clause shall be final.

(3) Subject to the provisions of articles 205 and 206, no money shall be withdrawn from the Consolidated Fund of the State except under appropriation made by law passed in accordance with the provisions of this article.

205. Supplementary, additional or excess grants.—(1) The Governor shall—

(a) if the amount authorised by any law made in accordance with the provisions of article 204 to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year; or

(b) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year, cause to be laid before the House or the Houses of the Legislature of the State another statement showing the estimated amount of that expenditure or cause to be presented to the Legislative Assembly of the State a demand for such excess, as the case may be.

(2) The provisions of articles 202, 203 and 204 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure or grant.

206. Votes on account, votes of credit and exceptional grants.—(1) Notwithstanding anything in the foregoing provisions of this Chapter, the Legislative Assembly of a State shall have power—

(a) to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in article 203 for the voting of such grant and the passing of the law in accordance with the provisions of article 204 in relation to that expenditure;

(b) to make a grant for meeting an unexpected demand upon the resources of the State when on account of the magnitude or the indefinite character of the service the demand cannot be stated with the details ordinarily given in an annual financial statement;

(c) to make an exceptional grant which forms no part of the current service of any financial year,

and the Legislature of the State shall have power to authorise by law the withdrawal of moneys from the Consolidated Fund of the State for the purposes for which the said grants are made.

(2) The provisions of articles 203 and 204 shall have effect in relation to the making of any grant under clause (1) and to any law to be made under that clause as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made

for the authorisation of appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure.

207. Special provisions as to financial Bills.—(1) A Bill or amendment making provision for any of the matters specified in sub-clauses (a) to (f) of clause (1) of article 199 shall not be introduced or moved except on the recommendation of the Governor, and a Bill making such provision shall not be introduced in a Legislative Council:

Provided that no recommendation shall be required under this clause for the moving of an amendment making provision for the reduction or abolition of any tax.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of a State shall not be passed by a House of the Legislature of the State unless the Governor has recommended to that House the consideration of the Bill.

Procedure Generally

208. Rules of procedure.—(1) A House of the Legislature of a State may make rules for regulating, subject to the provisions of this Constitution, its procedure* and the conduct of its business.

(2) Until rules are made under clause (1), the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Legislature for the corresponding Province shall have effect in relation to the Legislature of the State subject to such modifications and adaptations as may be made therein by the Speaker of the Legislative Assembly, or the Chairman of the Legislative Council, as the case may be.

(3) In a State having a Legislative Council the Governor, after consultation with the Speaker of the Legislative Assembly and the Chairman of

* The brackets and words "(including the quorum to constitute a meeting of the House)" ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 35 (date not notified). This amendment was omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 45 (w.e.f. 20-6-1979).

the Legislative Council, may make rules as to the procedure with respect to communications between the two Houses.

209. Regulation by law of procedure in the Legislature of the State in relation to financial business.—The Legislature of a State may, for the purpose of the timely completion of financial business, regulate by law the procedure of, and the conduct of business in, the House or Houses of the Legislature of the State in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of the State, and, if and so far as any provision of any law so made is inconsistent with any rule made by the House or either House of the Legislature of the State under clause (1) of article 208 or with any rule or standing order having effect in relation to the Legislature of the State under clause (2) of that article, such provision shall prevail.

210. Language to be used in the Legislature.—(1) Notwithstanding anything in Part XVII, but subject to the provisions of article 348, business in the Legislature of a State shall be transacted in the official language or languages of the State or in Hindi or in English:

Provided that the Speaker of the Legislative Assembly or Chairman of the Legislative Council, or person acting as such, as the case may be, may permit any member who cannot adequately express himself in any of the languages aforesaid to address the House in his mother-tongue.

(2) Unless the Legislature of the State by law otherwise provides, this article shall, after the expiration of a period of fifteen years from the commencement of this Constitution, have effect as if the words "or in English" were omitted therefrom:

¹[Provided that in relation to the ²[Legislatures of the States of Himachal Pradesh, Manipur, Meghalaya and Tripura] this clause shall have effect as if for the words "fifteen years" occurring therein, the words "twenty-five years" were substituted:]

³[Provided further that in relation to the ⁴[Legislatures of the States of ⁵[Arunachal Pradesh, Goa and Mizoram]], this clause shall have effect as if for

-
1. Ins. by the State of Himachal Pradesh Act, 1970 (53 of 1970), s. 46 (w.e.f. 25-1-1971).
 2. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971) s. 71, for "Legislature of the State of Himachal Pradesh" (w.e.f. 21-1-1972).
 3. Ins. by the State of Mizoram Act, 1986 (34 of 1986), s. 39 (w.e.f. 20-2-1987).
 4. Subs. by the State of Arunachal Pradesh Act, 1986 (69 of 1986), s. 42, for "Legislature of the State of Mizoram" (w.e.f. 20-2-1987).
 5. Subs. by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), s. 63, for "Arunachal Pradesh and Mizoram" (w.e.f. 30-5-1987).

the words "fifteen years" occurring therein, the words "forty years" were substituted.]

211. Restriction on discussion in the Legislature.—No discussion shall take place in the Legislature of a State with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties.

212. Courts not to inquire into proceedings of the Legislature.—(1) The validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure.

(2) No officer or member of the Legislature of a State in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in the Legislature shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

CHAPTER IV.—LEGISLATIVE POWER OF THE GOVERNOR

213. Power of Governor to promulgate Ordinances during recess of Legislature.—(1) If at any time, except when the Legislative Assembly of a State is in session, or where there is a Legislative Council in a State, except when both Houses of the Legislature are in session, the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require:

Provided that the Governor shall not, without instructions from the President, promulgate any such Ordinance if—

(a) a Bill containing the same provisions would under this Constitution have required the previous sanction of the President for the introduction thereof into the Legislature; or

(b) he would have deemed it necessary to reserve a Bill containing the same provisions for the consideration of the President; or

(c) an Act of the Legislature of the State containing the same provisions would under this Constitution have been invalid unless, having been reserved for the consideration of the President, it had received the assent of the President.

(2) An Ordinance promulgated under this article shall have the same force and effect as an Act of the Legislature of the State assented to by the Governor, but every such Ordinance—

THE CONSTITUTION OF INDIA

(Part VI.—The States)

(a) shall be laid before the Legislative Assembly of the State, or where there is a Legislative Council in the State, before both the Houses, and shall cease to operate at the expiration of six weeks from the reassembly of the Legislature, or if before the expiration of that period a resolution disapproving it is passed by the Legislative Assembly and agreed to by the Legislative Council, if any, upon the passing of the resolution or, as the case may be, on the resolution being agreed to by the Council; and

(b) may be withdrawn at any time by the Governor.

Explanation.—Where the Houses of the Legislature of a State having a Legislative Council are summoned to reassemble on different dates, the period of six weeks shall be reckoned from the later of those dates for the purposes of this clause.

(3) If and so far as an Ordinance under this article makes any provision which would not be valid if enacted in an Act of the Legislature of the State assented to by the Governor, it shall be void:

Provided that, for the purposes of the provisions of this Constitution relating to the effect of an Act of the Legislature of a State which is repugnant to an Act of Parliament or an existing law with respect to a matter enumerated in the Concurrent List, an Ordinance promulgated under this article in pursuance of instructions from the President shall be deemed to be an Act of the Legislature of the State which has been reserved for the consideration of the President and assented to by him.

¹(4)*

*

*

*

1. Cl. (4) was ins. by the Constitution (Thirty-eighth Amendment) Act, 1975, s. 3 (with retrospective effect) and omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 27 (w.e.f. 20-6-1979).

THE CONSTITUTION OF INDIA

(Part VI.—The States)

CHAPTER V.—THE HIGH COURTS IN THE STATES

214. High Courts for States.—^{1***} There shall be a High Court for each State.

² (2)*	*	*	*
² (3)*	*	*	*

215. High Courts to be courts of record.—Every High Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.

216. Constitution of High Courts.—Every High Court shall consist of a Chief Justice and such other Judges as the President may from time to time deem it necessary to appoint.

³ *	⁴ *	⁵ *	⁶ *
----------------	----------------	----------------	----------------

217. Appointment and conditions of the office of a Judge of a High Court.—(1) Every Judge of a High Court shall be appointed by the President by warrant under his hand and seal ⁴[on the recommendation of the National Judicial Appointments Commission referred to in article 124A], and the Governor of the State, and, in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of the High Court, ⁵[shall hold office, in the case of an additional or acting Judge, as provided in article 224, and in any other case, until he attains the age of ⁶[sixty-two years:]]

Provided that—

- (a) a Judge may, by writing under his hand addressed to the President, resign his office;
- (b) a Judge may be removed from his office by the President in the

-
- 1. The bracket and figure "(1)" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).
 - 2. Cls. (2) and (3) omitted by s. 29 and Sch., *ibid.* (w.e.f. 1-11-1956).
 - 3. Proviso omitted by the Constitution (Seventh Amendment) Act, 1956, s. 11 (w.e.f. 1-11-1956).
 - 4. Subs. by the Constitution (Ninety-ninth Amendment) Act, 2014, s. 6, for "after consultation with the Chief Justice of India, the Governor of the State, and, in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of the High Court" (w.e.f. 13-4-2015). This amendment has been struck down by the Supreme Court in the case of Supreme Court Advocates-on-Record Association and Another Vs. Union of India in its judgment dated 16-10-2015, AIR 2016 SC 117.
 - 5. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 12, for "shall hold office until he attains the age of sixty years" (w.e.f. 1-11-1956).
 - 6. Subs. by the Constitution (Fifteenth Amendment) Act, 1963, s. 4(a), for "sixty years" (w.e.f. 5-10-1963).

(Part VI.—The States)

manner provided in clause (4) of article 124 for the removal of a Judge of the Supreme Court;

(c) the office of a Judge shall be vacated by his being appointed by the President to be a Judge of the Supreme Court or by his being transferred by the President to any other High Court within the territory of India.

(2) A person shall not be qualified for appointment as a Judge of a High Court unless he is a citizen of India and—

(a) has for at least ten years held a judicial office in the territory of India; or

(b) has for at least ten years been an advocate of a High Court^{1***} or of two or more such Courts in succession.^{2***}

^{2(c)*} * * * *

Explanation.—For the purposes of this clause—

³[(a) in computing the period during which a person has held judicial office in the territory of India, there shall be included any period, after he has held any judicial office, during which the person has been an advocate of a High Court or has held the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law;]

⁴[(aa) in computing the period during which a person has been an advocate of a High Court, there shall be included any period during which the person⁵[has held judicial office or the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law] after he became an advocate;

(b) in computing the period during which a person has held judicial office in the territory of India or been an advocate of a High Court, there shall be included any period before the commencement of this

-
1. The words "in any State specified in the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).
 2. The word "or" and sub-clause (c) were ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 36 (w.e.f. 3-1-1977) and omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 28 (w.e.f. 20-6-1979).
 3. Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 28 (w.e.f. 20-6-1979).
 4. Cl. (a) re-lettered as cl. (aa) by the Constitution (Forty-fourth Amendment) Act, 1978, s. 28 (w.e.f. 20-6-1979).
 5. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 36, for "has held judicial office" (w.e.f. 3-1-1977).

Constitution during which he has held judicial office in any area which was comprised before the fifteenth day of August, 1947, within India as defined by the Government of India Act, 1935, or has been an advocate of any High Court in any such area, as the case may be.

¹[(3) If any question arises as to the age of a Judge of a High Court, the question shall be decided by the President after consultation with the Chief Justice of India and the decision of the President shall be final.]

218. Application of certain provisions relating to Supreme Court to High Courts.—The provisions of clauses (4) and (5) of article 124 shall apply in relation to a High Court as they apply in relation to the Supreme Court with the substitution of references to the High Court for references to the Supreme Court.

219. Oath or affirmation by Judges of High Courts.—Every person appointed to be a Judge of a High Court ^{2***} shall, before he enters upon his office, make and subscribe before the Governor of the State, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

³**[220. Restriction on practice after being a permanent Judge.]**—No person who, after the commencement of this Constitution, has held office as a permanent Judge of a High Court shall plead or act in any court or before any authority in India except the Supreme Court and the other High Courts.

Explanation.—In this article, the expression “High Court” does not include a High Court for a State specified in Part B of the First Schedule as it existed before the commencement⁴ of the Constitution (Seventh Amendment) Act, 1956.]

221. Salaries, etc., of Judges.—⁵[(1) There shall be paid to the Judges of each High Court such salaries as may be determined by Parliament by law

-
1. Ins. by the Constitution (Fifteenth Amendment) Act, 1963, s. 4(b), (with retrospective effect).
 2. The words "in a State" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).
 3. Subs. by s. 13, *ibid.* (w.e.f. 1-11-1956).
 4. 1st November, 1956.
 5. Subs. by the Constitution (Fifty-fourth Amendment) Act, 1986, s. 3, for clause (1) (w.e.f. 1-4-1986).

and, until provision in that behalf is so made, such salaries as are specified in the Second Schedule.]

(2) Every Judge shall be entitled to such allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such allowances and rights as are specified in the Second Schedule:

Provided that neither the allowances of a Judge nor his rights in respect to leave of absence or pension shall be varied to his disadvantage after his appointment.

222. Transfer of a Judge from one High Court to another.—(1) The President may, ¹[on the recommendation of the National Judicial Appointments Commission referred to in article 124A], transfer a Judge from one High Court to any other High Court ^{2***}.

³[(2) When a Judge has been or is so transferred, he shall, during the period he serves, after the commencement of the Constitution (Fifteenth Amendment) Act, 1963, as a Judge of the other High Court, be entitled to receive in addition to his salary such compensatory allowance as may be determined by Parliament by law and, until so determined, such compensatory allowance as the President may by order fix.]

223. Appointment of acting Chief Justice.—When the office of Chief Justice of a High Court is vacant or when any such Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other Judges of the Court as the President may appoint for the purpose.

4[224. Appointment of additional and acting Judges.]—(1) If by reason of any temporary increase in the business of a High Court or by reason

1. Subs. by the Constitution (Ninety-ninth Amendment) Act, 2014, s. 7, for "after consultation with the Chief Justice of India" (w.e.f. 13-4-2015). This amendment has been struck down by the Supreme Court in the case of *Supreme Court Advocates-on-Record Association and Another Vs. Union of India* in its judgment dated 16-10-2015, AIR 2016 SC 117.

2. The words "within the territory of India" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 14 (w.e.f. 1-11-1956).

3. Ins. by the Constitution (Fifteenth Amendment) Act, 1963, s. 5 (w.e.f. 5-10-1963). Original cl. (2) was omitted by the Constitution (Seventh Amendment) Act, 1956, s. 14 (w.e.f. 1-11-1956).

4. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 15 for art. 224 (w.e.f. 1-11-1956).

of arrears of work therein, it appears to the President that the number of the Judges of that Court should be for the time being increased, ¹[the President may, in consultation with the National Judicial Appointments Commission, appoint] duly qualified persons to be additional Judges of the Court for such period not exceeding two years as he may specify.

(2) When any Judge of a High Court other than the Chief Justice is by reason of absence or for any other reason unable to perform the duties of his office or is appointed to act temporarily as Chief Justice, ¹[the President may, in consultation with the National Judicial Appointments Commission, appoint] a duly qualified person to act as a Judge of that Court until the permanent Judge has resumed his duties.

(3) No person appointed as an additional or acting Judge of a High Court shall hold office after attaining the age of ²[sixty-two years].]

³**[224A. Appointment of retired Judges at sittings of High Courts.]** Notwithstanding anything in this Chapter, ⁴[the National Judicial Appointments Commission on a reference made to it by the Chief Justice of a High Court for any State, may with the previous consent of the President], request any person who has held the office of a Judge of that Court or of any other High Court to sit and act as a Judge of the High Court for that State, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that High Court:

Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a Judge of that High Court unless he consents so to do.]

1. Subs. by the Constitution (Ninety-ninth Amendment) Act, 2014, s. 8, for "the President may appoint" (w.e.f. 13-4-2015). This amendment has been struck down, by the Supreme Court in the case of *Supreme Court Advocates-on-Record Association and Another Vs. Union of India* in its judgment, dated 16-10-2015, AIR 2016 SC 117.

2 Subs. by the Constitution (Fifteenth Amendment) Act, 1963, s. 6, for "sixty years" (w.e.f. 5-10-1963).

3. Ins. by s. 7, *ibid.* (w.e.f. 5-10-1963).

4. Subs. by the Constitution (Ninety-ninth Amendment) Act, 2014, s. 9, for "the Chief Justice of a High Court for any State may at any time, with the previous consent of the President" (w.e.f. 13-4-2015). This amendment has been struck down by the Supreme Court in the case of *Supreme Court Advocates-on-Record Association and Another Vs. Union of India* in its judgment dated 16-10-2015, AIR 2016 SC 117.

225. Jurisdiction of existing High Courts.—Subject to the provisions of this Constitution and to the provisions of any law of the appropriate Legislature made by virtue of powers conferred on that Legislature by this Constitution, the jurisdiction of, and the law administered in, any existing High Court, and the respective powers of the Judges thereof in relation to the administration of justice in the Court, including any power to make rules of Court and to regulate the sittings of the Court and of members thereof sitting alone or in Division Courts, shall be the same as immediately before the commencement of this Constitution:

¹[Provided that any restriction to which the exercise of original jurisdiction by any of the High Courts with respect to any matter concerning the revenue or concerning any act ordered or done in the collection thereof was subject immediately before the commencement of this Constitution shall no longer apply to the exercise of such jurisdiction.]

²[**226. Power of High Courts to issue certain writs.**—(1) Notwithstanding anything in article 32 ^{3***}, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including ⁴[writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.]

(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power,

-
1. Omitted by the Constitution (Forty-second Amendment) Act, 1976, s. 37 (w.e.f. 1-2-1977) and subsequently ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 29 (w.e.f. 20-6-1979).
 2. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 38 for art. 226 (w.e.f. 1-2-1977).
 3. The words, figures and letters "but subject to the provisions of article 131A and article 226A" omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 7 (w.e.f. 13-4-1978).
 4. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 30, for the portion beginning with "writs in the nature of *habeas corpus*, *mandamus*, *prohibition*, *quo warranto* and *certiorari*, or any of them" and ending with "such illegality has resulted in substantial failure of justice." (w.e.f. 1-8-1979).

notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.

¹[(3) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to, a petition under clause (1), without—

(a) furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and

(b) giving such party an opportunity of being heard,

makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the said next day, stand vacated.]

²[(4) The power conferred on a High Court by this article shall not be in derogation of the power conferred on the Supreme Court by clause (2) of article 32.]

³[**226A. Constitutional validity of Central laws not to be considered in proceedings under article 226.**]—Omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 8 (w.e.f. 13-4-1978).

227. Power of superintendence over all courts by the High Court.—⁴[(1) Every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.]

-
1. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s.30, for cl. (3), (4), (5) and (6) (w.e.f. 1-8-1979).
 2. Cl. (7) renumbered as cl. (4) by the Constitution (Forty-fourth Amendment) Act, 1978, s. 30 (w.e.f. 1-8-1979).
 3. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 39 (w.e.f. 1-2-1977).
 4. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 40, for cl. (1) (w.e.f. 1-2-1977) and further subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 31, for cl. (1) (w.e.f. 20-6-1979).

(2) Without prejudice to the generality of the foregoing provision, the High Court may—

(a) call for returns from such courts;

(b) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts; and

(c) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts.

(3) The High Court may also settle tables of fees to be allowed to the sheriff and all clerks and officers of such courts and to attorneys, advocates and pleaders practising therein:

Provided that any rules made, forms prescribed or tables settled under clause (2) or clause (3) shall not be inconsistent with the provision of any law for the time being in force, and shall require the previous approval of the Governor.

(4) Nothing in this article shall be deemed to confer on a High Court powers of superintendence over any court or tribunal constituted by or under any law relating to the Armed Forces.

¹(5)* * *

228. Transfer of certain cases to High Court.—If the High Court is satisfied that a case pending in a court subordinate to it involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the case,²[it shall withdraw the case and ^{3***} may—]

(a) either dispose of the case itself, or

(b) determine the said question of law and return the case to the court from which the case has been so withdrawn together with a copy of its judgment on such question, and the said court shall on receipt thereof proceed to dispose of the case in conformity with such judgment.

1. Cl. (5) was ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 40 (w.e.f. 1-2-1977) and omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 31 (w.e.f. 20-6-1979).

2. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 41, for "it shall withdraw the case and may—" (w.e.f. 1-2-1977).

3. The words, figures and letter, "subject to the provisions of article 131A," omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 9 (w.e.f. 13-4-1978).

¹[228A. *Special provisions as to disposal of questions relating to constitutional validity of State laws.*]—Omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 10 (w.e.f. 13-4-1978).

229. Officers and servants and the expenses of High Courts.—(1) Appointments of officers and servants of a High Court shall be made by the Chief Justice of the Court or such other Judge or officer of the Court as he may direct:

Provided that the Governor of the State ^{2***} may by rule require that in such cases as may be specified in the rule no person not already attached to the Court shall be appointed to any office connected with the Court save after consultation with the State Public Service Commission.

(2) Subject to the provisions of any law made by the Legislature of the State, the conditions of service of officers and servants of a High Court shall be such as may be prescribed by rules made by the Chief Justice of the Court or by some other Judge or officer of the Court authorised by the Chief Justice to make rules for the purpose:

Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the Governor of the State ^{2***}.

(3) The administrative expenses of a High Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the Court, shall be charged upon the Consolidated Fund of the State, and any fees or other moneys taken by the Court shall form part of that Fund.

³[230. Extension of jurisdiction of High Courts to Union territories.]—(1) Parliament may by law extend the jurisdiction of a High Court to, or exclude the jurisdiction of a High Court from, any Union territory.

(2) Where the High Court of a State exercises jurisdiction in relation to a Union territory,—

(a) nothing in this Constitution shall be construed as empowering the Legislature of the State to increase, restrict or abolish that jurisdiction; and

(b) the reference in article 227 to the Governor shall, in relation to

1. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 42 (w.e.f. 1-2-1977).

2. The words "in which the High Court has its principal seat" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

3. Subs. by s. 16, *ibid.*, for arts. 230, 231 and 232 (w.e.f. 1-11-1956).

(Part VI.—The States)

any rules, forms or tables for subordinate courts in that territory, be construed as a reference to the President.

231. Establishment of a common High Court for two or more States.—(1) Notwithstanding anything contained in the preceding provisions of this Chapter, Parliament may by law establish a common High Court for two or more States or for two or more States and a Union territory.

(2) In relation to any such High Court,—

^{1(a)*} * * *

(b) the reference in article 227 to the Governor shall, in relation to any rules, forms or tables for subordinate courts, be construed as a reference to the Governor of the State in which the subordinate courts are situate; and

(c) the references in articles 219 and 229 to the State shall be construed as a reference to the State in which the High Court has its principal seat:

Provided that if such principal seat is in a Union territory, the references in articles 219 and 229 to the Governor, Public Service Commission, Legislature and Consolidated Fund of the State shall be construed respectively as references to the President, Union Public Service Commission, Parliament and Consolidated Fund of India.]

[**232. Interpretation.**—Articles 230, 231 and 232 subs. by articles 230 and 231 by the Constitution (Seventh Amendment) Act, 1956, s. 16 (w.e.f. 1-11-1956)].

CHAPTER VI.—SUBORDINATE COURTS

233. Appointment of district judges.—(1) Appointments of persons to

1. Sub-clause (a) was omitted by the Constitution (Ninety-ninth Amendment) Act, 2014, s. 10 (w.e.f. 13-4-2015). This amendment has been struck down by the Supreme Court *vide its order the 16-10-2015 in the Supreme Court Advocates-on-Record Association and Another Vs. Union of India reported AIR 2016 SC 117*. Before amendment, sub-clause (a) was as under:—

"(a) the reference in article 217 to the Governor of the State shall be construed as reference to the Governors of all the States in relation to which the High Court exercises jurisdiction".

be, and the posting and promotion of, district judges in any State shall be made by the Governor of the State in consultation with the High Court exercising jurisdiction in relation to such State.

(2) A person not already in the service of the Union or of the State shall only be eligible to be appointed a district judge if he has been for not less than seven years an advocate or a pleader and is recommended by the High Court for appointment.

¹[233A. Validation of appointments of, and judgments, etc., delivered by, certain district judges.]—Notwithstanding any judgment, decree or order of any court,—

(a) (i) no appointment of any person already in the judicial service of a State or of any person who has been for not less than seven years an advocate or a pleader, to be a district judge in that State, and

(ii) no posting, promotion or transfer of any such person as a district judge, made at any time before the commencement of the Constitution (Twentieth Amendment) Act, 1966, otherwise than in accordance with the provisions of article 233 or article 235 shall be deemed to be illegal or void or ever to have become illegal or void by reason only of the fact that such appointment, posting, promotion or transfer was not made in accordance with the said provisions;

(b) no jurisdiction exercised, no judgment, decree, sentence or order passed or made, and no other act or proceeding done or taken, before the commencement of the Constitution (Twentieth Amendment) Act, 1966 by, or before, any person appointed, posted, promoted or transferred as a district judge in any State otherwise than in accordance with the provisions of article 233 or article 235 shall be deemed to be illegal or invalid or ever to have become illegal or invalid by reason only of the fact that such appointment, posting, promotion or transfer was not made in accordance with the said provisions.]

234. Recruitment of persons other than district judges to the judicial service.—Appointments of persons other than district judges to the judicial service of a State shall be made by the Governor of the State in accordance with rules made by him in that behalf after consultation with the State Public Service Commission and with the High Court exercising jurisdiction in relation to such State.

1. Ins. by the Constitution (Twentieth Amendment) Act, 1966, s. 2 (w.e.f. 22-12-1966).

235. Control over subordinate courts.—The control over district courts and courts subordinate thereto including the posting and promotion of, and the grant of leave to, persons belonging to the judicial service of a State and holding any post inferior to the post of district judge shall be vested in the High Court, but nothing in this article shall be construed as taking away from any such person any right of appeal which he may have under the law regulating the conditions of his service or as authorising the High Court to deal with him otherwise than in accordance with the conditions of his service prescribed under such law.

236. Interpretation.—In this Chapter—

(a) the expression “district judge” includes judge of a city civil court, additional district judge, joint district judge, assistant district judge, chief judge of a small cause court, chief presidency magistrate, additional chief presidency magistrate, sessions judge, additional sessions judge and assistant sessions Judge;

(b) the expression “judicial service” means a service consisting exclusively of persons intended to fill the post of district judge and other civil judicial posts inferior to the post of district judge.

237. Application of the provisions of this Chapter to certain class or classes of magistrates.—The Governor may by public notification direct that the foregoing provisions of this Chapter and any rules made thereunder shall with effect from such date as may be fixed by him in that behalf apply in relation to any class or classes of magistrates in the State as they apply in relation to persons appointed to the judicial service of the State subject to such exceptions and modifications as may be specified in the notification.

***PART VII**

[*The States in Part B of the First Schedule*].

* Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956)

PART VIII

¹[THE UNION TERRITORIES]

²[**239. Administration of Union territories.**—(1) Save as otherwise provided by Parliament by law, every Union territory shall be administered by the President acting, to such extent as he thinks fit, through an administrator to be appointed by him with such designation as he may specify.

(2) Notwithstanding anything contained in Part VI, the President may appoint the Governor of a State as the administrator of an adjoining Union territory, and where a Governor is so appointed, he shall exercise his functions as such administrator independently of his Council of Ministers.]

^{3*}[**239A. Creation of local Legislatures or Council of Ministers or both for certain Union territories.**—(1) Parliament may by law create ⁴[for the Union territory of ⁵[Puducherry]]—

(a) a body, whether elected or partly nominated and partly elected, to function as a Legislature for the Union territory, or

(b) a Council of Ministers,

or both with such constitution, powers and functions, in each case, as may be specified in the law.

(2) Any such law as is referred to in clause (1) shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending this Constitution.]

1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 17, for the heading "THE STATES IN PART C OF THE FIRST SCHEDULE" (w.e.f. 1-11-1956).

2. Subs. by s. 17, *ibid.*, for art. 239 (w.e.f. 1-11-1956).

3. Ins. by the Constitution (Fourteenth Amendment) Act, 1962, s. 4 (w.e.f. 28-12-1962).

4. Subs. by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987) s. 63, for "for any of the Union territories of Goa, Daman and Diu and Pondicherry" (w.e.f. 30-5-1987).

5. Subs. by the Pondicherry (Alteration of Name) Act, 2006 (44 of 2006), s. 4, for "Pondicherry" (w.e.f. 1-10-2006).

* Article 239A has been made applicable to Union Territory of Jammu and Kashmir by the Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019) S.13 (w.e.f. 31-10-2019).

¹[239AA. **Special provisions with respect to Delhi.**—(1) As from the date of commencement of the Constitution (Sixty-ninth Amendment) Act, 1991, the Union territory of Delhi shall be called the National Capital Territory of Delhi (hereafter in this Part referred to as the National Capital Territory) and the administrator thereof appointed under article 239 shall be designated as the Lieutenant Governor.

(2)(a) There shall be a Legislative Assembly for the National Capital Territory and the seats in such Assembly shall be filled by members chosen by direct election from territorial constituencies in the National Capital Territory.

(b) The total number of seats in the Legislative Assembly, the number of seats reserved for Scheduled Castes, the division of the National Capital Territory into territorial constituencies (including the basis for such division) and all other matters relating to the functioning of the Legislative Assembly shall be regulated by law made by Parliament.

²[(ba) Seats shall be reserved for women in the Legislative Assembly of the National Capital Territory of Delhi.

(bb) As nearly as may be, one-third of the seats reserved for the Scheduled Castes in the Legislative Assembly of the National Capital Territory of Delhi shall be reserved for women.

(bc) As nearly as may be, one-third of the total number of seats to be filled by direct election in the Legislative Assembly of the National Capital Territory of Delhi (including the numbers of seats reserved for women belonging to the Scheduled Castes) shall be reserved for women in such manner as Parliament may by law determine.]

(c) The provisions of articles 324 to 327 and 329 shall apply in relation to the National Capital Territory, the Legislative Assembly of the National Capital Territory and the members thereof as they apply, in relation to a State, the Legislative Assembly of a State and the members thereof respectively; and any reference in articles 326 and 329 to “appropriate Legislature” shall be deemed to be a reference to Parliament.

1. Arts 239AA and 239 AB ins. by the Constitution (Sixty-ninth Amendment) Act, 1991, s. 2 (w.e.f. 1-2-1992).

2. ins. by the Constitution (One-hundred and Sixth Amendment) Act, 2023, s. 2 (date yet to be notified).

(3) (a) Subject to the provisions of this Constitution, the Legislative Assembly shall have power to make laws for the whole or any part of the National Capital Territory with respect to any of the matters enumerated in the State List or in the Concurrent List in so far as any such matter is applicable to Union territories except matters with respect to Entries 1, 2 and 18 of the State List and Entries 64, 65 and 66 of that List in so far as they relate to the said Entries 1, 2 and 18.

(b) Nothing in sub-clause (a) shall derogate from the powers of Parliament under this Constitution to make laws with respect to any matter for a Union territory or any part thereof.

(c) If any provision of a law made by the Legislative Assembly with respect to any matter is repugnant to any provision of a law made by Parliament with respect to that matter, whether passed before or after the law made by the Legislative Assembly, or of an earlier law, other than a law made by the Legislative Assembly, then, in either case, the law made by Parliament, or, as the case may be, such earlier law, shall prevail and the law made by the Legislative Assembly shall, to the extent of the repugnancy, be void:

Provided that if any such law made by the Legislative Assembly has been reserved for the consideration of the President and has received his assent, such law shall prevail in the National Capital Territory:

Provided further that nothing in this sub-clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislative Assembly.

(4) There shall be a Council of Ministers consisting of not more than ten percent. of the total number of members in the Legislative Assembly, with the Chief Minister at the head to aid and advise the Lieutenant Governor in the exercise of his functions in relation to matters with respect to which the Legislative Assembly has power to make laws, except in so far as he is, by or under any law, required to act in his discretion:

Provided that in the case of difference of opinion between the Lieutenant Governor and his Ministers on any matter, the Lieutenant Governor shall refer it to the President for decision and act according to the decision given thereon by the President and pending such decision it shall be competent for the Lieutenant Governor in any case where the matter, in his opinion, is so urgent that it is necessary for him to take immediate action, to take such action or to give such direction in the matter as he deems necessary.

(5) The Chief Minister shall be appointed by the President and other Ministers shall be appointed by the President on the advice of the Chief Minister and the Ministers shall hold office during the pleasure of the President.

(6) The Council of Ministers shall be collectively responsible to the Legislative Assembly.

¹[(7) (a)] Parliament may, by law, make provisions for giving effect to, or supplementing the provisions contained in the foregoing clauses and for all matters incidental or consequential thereto.

²[(b)] Any such law as is referred to in sub-clause (a) shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending, this Constitution.]

(8) The provisions of article 239B shall, so far as may be, apply in relation to the National Capital Territory, the Lieutenant Governor and the Legislative Assembly, as they apply in relation to the Union territory of ³[Puducherry], the administrator and its Legislature, respectively; and any reference in that article to "clause (1) of article 239A" shall be deemed to be a reference to this article or article 239AB, as the case may be.

239AB. Provision in case of failure of constitutional machinery.—If the President, on receipt of a report from the Lieutenant Governor or otherwise, is satisfied—

(a) that a situation has arisen in which the administration of the National Capital Territory cannot be carried on in accordance with the provisions of article 239AA or of any law made in pursuance of that article; or

(b) that for the proper administration of the National Capital Territory it is necessary or expedient so to do,
the President may by order suspend the operation of any provision of article 239AA or of all or any of the provisions of any law made in pursuance of that

1. Subs. by the Constitution (Seventieth Amendment) Act, 1992, s. 3, for "(7)" (w.e.f. 21-12-1991).

2. Ins. by s. 3, *ibid.* (w.e.f. 21-12-1991).

3. Subs. by the Pondicherry (Alteration of Name) Act, 2006 (44 of 2006), s. 4, for "Pondicherry" (w.e.f. 1-10-2006).

article for such period and subject to such conditions as may be specified in such law and make such incidental and consequential provisions as may appear to him to be necessary or expedient for administering the National Capital Territory in accordance with the provisions of article 239 and article 239AA.]

¹[**239B. Power of administrator to promulgate Ordinances during recess of Legislature.**—(1) If at any time, except when the Legislature of²[the Union territory of³[Puducherry]] is in session, the administrator thereof is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require:

Provided that no such Ordinance shall be promulgated by the administrator except after obtaining instructions from the President in that behalf:

Provided further that whenever the said Legislature is dissolved, or its functioning remains suspended on account of any action taken under any such law as is referred to in clause (1) of article 239A, the administrator shall not promulgate any Ordinance during the period of such dissolution or suspension.

(2) An Ordinance promulgated under this article in pursuance of instructions from the President shall be deemed to be an Act of the Legislature of the Union territory which has been duly enacted after complying with the provisions in that behalf contained in any such law as is referred to in clause (1) of article 239A, but every such Ordinance—

(a) shall be laid before the Legislature of the Union territory and shall cease to operate at the expiration of six weeks from the reassembly of the Legislature or if, before the expiration of that period, a resolution disapproving it is passed by the Legislature, upon the passing of the resolution; and

(b) may be withdrawn at any time by the administrator after obtaining instructions from the President in that behalf.

(3) If and so far as an Ordinance under this article makes any provision which would not be valid if enacted in an Act of the Legislature of the Union

1. Ins. by the Constitution (Twenty-seventh Amendment) Act, 1971, s. 3 (w.e.f. 30-12-1971).

2. Subs. by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987) s. 63, for "a Union territory referred to in clause (1) article 239A" (w.e.f. 30-5-1987).

3. Subs. by the Pondicherry (Alteration of Name) Act, 2006 (44 of 2006), s. 4, for "Pondicherry" (w.e.f. 1-10-2006).

THE CONSTITUTION OF INDIA

(Part VIII.—The Union Territories)

territory made after complying with the provisions in that behalf contained in any such law as is referred to in clause (1) of article 239A, it shall be void.]

¹(4)* * * *

²[**240. Power of President to make regulations for certain Union territories.**—(1) The President may make regulations for the peace, progress and good government of the Union territory of—

(a) the Andaman and Nicobar Islands;

³[(b) Lakshadweep;]

⁴[(c) Dadra and Nagar Haveli and Daman and Diu;]

⁵[(d) ****;]

⁶[(e) ⁷[Puducherry];]

⁸(f) * * *

⁹(g) * * *

¹⁰[Provided that when any body is created under article 239A to function as a Legislature for the Union territory of ⁷[Puducherry], the President shall not make any regulation for the peace, progress and good government of that Union territory with effect from the date appointed for the first meeting of the Legislature:]

1. Clause (4) ins. by the Constitution (Thirty-eighth Amendment) Act, 1975, s. 4 (with retrospective effect). This amendment was omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 32 (w.e.f. 20-6-1979).
2. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 17, for art. 240 (w.e.f. 1-11-1956).
3. Subs. by the Laccadive, Minicoy and Amindivi Islands (Alteration of Name) Act, 1973 (34 of 1973), s. 4, for entry (b) (w.e.f. 1-11-1973).
4. Subs. by the Dadra and Nagar Haveli and Daman and Diu (Merger of Union territories) Act, 2019 (44 of 2019) s. 4(i) (w.e.f. 26-1-2020) for entry (c) which was ins. by the Constitution (Tenth Amendment) Act, 1961, s.3 (w.e.f. 11-8-1961).
5. Omitted by the Dadra and Nagar Haveli and Daman and Diu (Merger of Union territories) Act, 2019 (44 of 2019) s. 4(ii) (w.e.f. 26-1-2020).
6. Ins. by the Constitution (Fourteenth Amendment) Act, 1962, s. 5 (w.e.f. 16-8-1962).
7. Subs. by the Pondicherry (Alteration of Name) Act, 2006 (44 of 2006), s. 4 for "Pondicherry" (w.e.f. 1-10-2006).
8. The entry (f) relating to Mizoram omitted by the State of Mizoram Act, 1986 (34 of 1986), s. 39 (w.e.f. 20-2-1987).
9. The entry (g) relating to Arunachal Pradesh omitted by the State of Arunachal Pradesh Act, 1986 (69 of 1986), s. 42 (w.e.f. 20-2-1987).
10. Ins. by the Constitution (Fourteenth Amendment) Act, 1962, s. 5 (w.e.f. 28-12-1962).

¹[Provided further that whenever the body functioning as a Legislature for the Union territory of²[Puducherry] is dissolved, or the functioning of that body as such Legislature remains suspended on account of any action taken under any such law as is referred to in clause (1) of article 239A, the President may, during the period of such dissolution or suspension, make regulations for the peace, progress and good government of that Union territory.]

(2) Any regulation so made may repeal or amend any Act made by Parliament or³[any other law], which is for the time being applicable to the Union territory and, when promulgated by the President, shall have the same force and effect as an Act of Parliament which applies to that territory.]

241. High Courts for Union territories.—(1) Parliament may by law constitute a High Court for a⁴[Union territory] or declare any court in any⁵[such territory] to be a High Court for all or any of the purposes of this Constitution.

(2) The provisions of Chapter V of Part VI shall apply in relation to every High Court referred to in clause (1) as they apply in relation to a High Court referred to in article 214 subject to such modifications or exceptions as Parliament may by law provide.

⁶[(3) Subject to the provisions of this Constitution and to the provisions of any law of the appropriate Legislature made by virtue of powers conferred on that Legislature by or under this Constitution, every High Court exercising jurisdiction immediately before the commencement of the Constitution (Seventh Amendment) Act, 1956, in relation to any Union territory shall continue to exercise such jurisdiction in relation to that territory after such commencement.

(4) Nothing in this article derogates from the power of Parliament to extend or exclude the jurisdiction of a High Court for a State to, or from, any Union territory or part thereof.]

242. [Coorg].—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.(w.e.f. 1-11-1956).

-
1. Ins. by the Constitution (Twenty-seventh Amendment) Act, 1971, s. 4 (w.e.f. 15-2-1972).
 2. Subs. by the Pondicherry (Alteration of Name) Act, 2006 (44 of 2006), s. 4, for "Pondicherry" (w.e.f. 1-10-2006).
 3. Subs. by the Constitution (Twenty-seventh Amendment) Act, 1971, s. 4, for "any existing law" (w.e.f. 15-2-1972).
 4. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch., for "State specified in Part C of the First Schedule" (w.e.f. 1-11-1956).
 5. Subs. by s. 29. and Sch., *ibid.*, for "such State" (w.e.f. 1-11-1956).
 6. Subs. by s. 29, and Sch., *ibid.*, for cls. (3) and (4) (w.e.f. 1-11-1956).

¹[PART IX

THE PANCHAYATS

243. Definitions.—In this Part, unless the context otherwise requires,—

(a) “district” means a district in a State;

(b) “Gram Sabha” means a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level;

(c) “intermediate level” means a level between the village and district levels specified by the Governor of a State by public notification to be the intermediate level for the purposes of this Part;

(d) “Panchayat” means an institution (by whatever name called) of self-government constituted under article 243B, for the rural areas;

(e) “Panchayat area” means the territorial area of a Panchayat;

(f) “Population” means the population as ascertained at the last preceding census of which the relevant figures have been published;

(g) “village” means a village specified by the Governor by public notification to be a village for the purposes of this Part and includes a group of villages so specified.

243A. Gram Sabha.—A Gram Sabha may exercise such powers and perform such functions at the village level as the Legislature of a State may, by law, provide.

243B. Constitution of Panchayats.—(1) There shall be constituted in every State, Panchayats at the village, intermediate and district levels in accordance with the provisions of this Part.

(2) Notwithstanding anything in clause (1), Panchayats at the intermediate level may not be constituted in a State having a population not exceeding twenty lakhs.

243C. Composition of Panchayats.—(1) Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the composition of Panchayats:

1. Original Part IX relating to "The territories in Part D of the First Schedule and other territories not specified in that Schedule" was omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956) and subsequently ins. by the Constitution (Seventy-third Amendment) Act, 1992, s. 2 (w.e.f. 24-4-1993).

(Part IX.—The Panchayats)

Provided that the ratio between the population of the territorial area of a Panchayat at any level and the number of seats in such Panchayat to be filled by election shall, so far as practicable, be the same throughout the State.

(2) All the seats in a Panchayat shall be filled by persons chosen by direct election from territorial constituencies in the Panchayat area and, for this purpose, each Panchayat area shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the Panchayat area.

(3) The Legislature of a State may, by law, provide for the representation—

(a) of the Chairpersons of the Panchayats at the village level, in the Panchayats at the intermediate level or, in the case of a State not having Panchayats at the intermediate level, in the Panchayats at the district level;

(b) of the Chairpersons of the Panchayats at the intermediate level, in the Panchayats at the district level;

(c) of the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly a Panchayat area at a level other than the village level, in such Panchayat;

(d) of the members of the Council of States and the members of the Legislative Council of the State, where they are registered as electors within—

(i) a Panchayat area at the intermediate level, in Panchayat at the intermediate level;

(ii) a Panchayat area at the district level, in Panchayat at the district level.

(4) The Chairperson of a Panchayat and other members of a Panchayat whether or not chosen by direct election from territorial constituencies in the Panchayat area shall have the right to vote in the meetings of the Panchayats.

(5) The Chairperson of—

(a) a Panchayat at the village level shall be elected in such manner as the Legislature of a State may, by law, provide; and

(b) a Panchayat at the intermediate level or district level shall be elected by, and from amongst, the elected members thereof.

243D. Reservation of seats.—(1) Seats shall be reserved for—

- (a) the Scheduled Castes; and
- (b) the Scheduled Tribes,

in every Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes in that Panchayat area or of the Scheduled Tribes in that Panchayat area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Panchayat.

(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat.

(4) The offices of the Chairpersons in the Panchayats at the village or any other level shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide:

Provided that the number of offices of Chairpersons reserved for the Scheduled Castes and the Scheduled Tribes in the Panchayats at each level in any State shall bear, as nearly as may be, the same proportion to the total number of such offices in the Panchayats at each level as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State:

Provided further that not less than one-third of the total number of offices of Chairpersons in the Panchayats at each level shall be reserved for women:

Provided also that the number of offices reserved under this clause shall be allotted by rotation to different Panchayats at each level.

(5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.

(6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Panchayat or offices of Chairpersons in the Panchayats at any level in favour of backward class of citizens.

243E. Duration of Panchayats, etc.—(1) Every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer.

(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Panchayat at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).

(3) An election to constitute a Panchayat shall be completed—

(a) before the expiry of its duration specified in clause (1);

(b) before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Panchayat would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Panchayat for such period.

(4) A Panchayat constituted upon the dissolution of a Panchayat before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Panchayat would have continued under clause (1) had it not been so dissolved.

243F. Disqualifications for membership.—(1) A person shall be disqualified for being chosen as, and for being, a member of a Panchayat—

(a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned:

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;

(b) if he is so disqualified by or under any law made by the Legislature of the State.

(2) If any question arises as to whether a member of a Panchayat has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide.

243G. Powers, authority and responsibilities of Panchayats.—

Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein, with respect to—

- (a) the preparation of plans for economic development and social justice;
- (b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

243H. Powers to impose taxes by, and Funds of, the Panchayats.—

The Legislature of a State may, by law,—

- (a) authorise a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;
- (b) assign to a Panchayat such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;
- (c) provide for making such grants-in-aid to the Panchayats from the Consolidated Fund of the State; and
- (d) provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Panchayats and also for the withdrawal of such moneys therefrom,

as may be specified in the law.

243I. Constitution of Finance Commission to review financial position.—(1) The Governor of a State shall, as soon as may be within one year from the commencement of the Constitution (Seventy-third Amendment) Act, 1992, and thereafter at the expiration of every fifth year, constitute a Finance Commission to review the financial position of the Panchayats and to make recommendations to the Governor as to—

- (a) the principles which should govern—
 - (i) the distribution between the State and the Panchayats of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Panchayats at all levels of their respective shares of such proceeds;

(Part IX.—The Panchayats)

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Panchayats;

(iii) the grants-in-aid to the Panchayats from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Panchayats;

(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Panchayats.

(2) The Legislature of a State may, by law, provide for the composition of the Commission, the qualifications which shall be requisite for appointment as members thereof and the manner in which they shall be selected.

(3) The Commission shall determine their procedure and shall have such powers in the performance of their functions as the Legislature of the State may, by law, confer on them.

(4) The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

243J. Audit of accounts of Panchayats.—The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Panchayats and the auditing of such accounts.

243K. Elections to the Panchayats.—(1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.

(2) Subject to the provisions of any law made by the Legislature of a State, the conditions of service and tenure of office of the State Election Commissioner shall be such as the Governor may by rule determine:

Provided that the State Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.

(3) The Governor of a State shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by clause (1).

(4) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Panchayats.

243L. Application to Union territories.—The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were references to the Administrator of the Union territory appointed under article 239 and references to the Legislature or the legislative Assembly of a State were references, in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly:

Provided that the President may, by public notification, direct that the provisions of this Part shall apply to any Union territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

243M. Part not to apply to certain areas.—(1) Nothing in this Part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2), of article 244.

(2) Nothing in this Part shall apply to—

(a) the States of Nagaland, Meghalaya and Mizoram;

(b) the hill areas in the State of Manipur for which District Councils exist under any law for the time being in force.

(3) Nothing in this Part—

(a) relating to Panchayats at the district level shall apply to the hill areas of the District of Darjeeling in the State of West Bengal for which Darjeeling Gorkha Hill Council exists under any law for the time being in force;

(b) shall be construed to affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under such law.

(Part IX.—The Panchayats)

¹[(3A) Nothing in article 243D, relating to reservation of seats for the Scheduled Castes, shall apply to the State of Arunachal Pradesh.]

(4) Notwithstanding anything in this Constitution,—

(a) the Legislature of a State referred to in sub-clause (a) of clause (2) may, by law, extend this Part to that State, except the areas, if any, referred to in clause (1), if the Legislative Assembly of that State passes a resolution to that effect by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting;

(b) Parliament may, by law, extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purposes of article 368.

243N. Continuance of existing laws and Panchayats.—Notwithstanding anything in this Part, any provision of any law relating to Panchayats in force in a State immediately before the commencement of the Constitution (Seventy-third Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

Provided that all the Panchayats existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

243O. Bar to interference by courts in electoral matters.—Notwithstanding anything in this Constitution,—

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 243K, shall not be called in question in any court;

(b) no election to any Panchayat shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.

1. Ins. by the Constitution (Eighty-third Amendment) Act, 2000, s. 2 (w.e.f. 8-9-2000).

**¹[PART IXA
THE MUNICIPALITIES**

243P. Definitions.—In this Part, unless the context otherwise requires,—

(a) “Committee” means a Committee constituted under article 243S;

(b) “district” means a district in a State;

(c) “Metropolitan area” means an area having a population of ten lakhs or more, comprised in one or more districts and consisting of two or more Municipalities or Panchayats or other contiguous areas, specified by the Governor by public notification to be a Metropolitan area for the purposes of this Part;

(d) “Municipal area” means the territorial area of a Municipality as is notified by the Governor;

(e) “Municipality” means an institution of self-government constituted under article 243Q;

(f) “Panchayat” means a Panchayat constituted under article 243B;

(g) “population” means the population as ascertained at the last preceding census of which the relevant figures have been published.

243Q. Constitution of Municipalities.—(1) There shall be constituted in every State,—

(a) a Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area;

(b) a Municipal Council for a smaller urban area; and

(c) a Municipal Corporation for a larger urban area,

in accordance with the provisions of this Part:

1. Part IXA ins. by the Constitution (Seventy-fourth Amendment) Act, 1992, s. 2
(w.e.f. 1-6-1993).

Provided that a Municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an industrial township.

(2) In this article, “a transitional area”, “a smaller urban area” or “a larger urban area” means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this Part.

243R. Composition of Municipalities.—(1) Save as provided in clause (2), all the seats in a Municipality shall be filled by persons chosen by direct election from the territorial constituencies in the Municipal area and for this purpose each Municipal area shall be divided into territorial constituencies to be known as wards.

(2) The Legislature of a State may, by law, provide—

(a) for the representation in a Municipality of—

(i) persons having special knowledge or experience in Municipal administration;

(ii) the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Municipal area;

(iii) the members of the Council of States and the members of the Legislative Council of the State registered as electors within the Municipal area;

(iv) the Chairpersons of the Committees constituted under clause (5) of article 243S:

Provided that the persons referred to in paragraph (i) shall not have the right to vote in the meetings of the Municipality;

(b) the manner of election of the Chairperson of a Municipality.

243S. Constitution and composition of Wards Committees, etc.—(1)

There shall be constituted Wards Committees, consisting of one or more wards, within the territorial area of a Municipality having a population of three lakhs or more.

(2) The Legislature of a State may, by law, make provision with respect to—

(a) the composition and the territorial area of a Wards Committee;

(b) the manner in which the seats in a Wards Committee shall be filled.

(3) A member of a Municipality representing a ward within the territorial area of the Wards Committee shall be a member of that Committee.

(4) Where a Wards Committee consists of—

(a) one ward, the member representing that ward in the Municipality; or

(b) two or more wards, one of the members representing such wards in the Municipality elected by the members of the Wards Committee,

shall be the Chairperson of that Committee.

(5) Nothing in this article shall be deemed to prevent the Legislature of a State from making any provision for the constitution of Committees in addition to the Wards Committees.

243T. Reservation of seats.—(1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes in the Municipal area or of the Scheduled Tribes in the Municipal area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Municipality.

(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Municipality.

(4) The offices of Chairpersons in the Municipalities shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide.

(5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.

(6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Municipality or offices of Chairpersons in the Municipalities in favour of backward class of citizens.

243U. Duration of Municipalities, etc.—(1) Every Municipality, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer:

Provided that a Municipality shall be given a reasonable opportunity of being heard before its dissolution.

(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Municipality at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).

(3) An election to constitute a Municipality shall be completed,—

(a) before the expiry of its duration specified in clause (1);

(b) before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Municipality for such period.

(4) A Municipality constituted upon the dissolution of a Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under clause (1) had it not been so dissolved.

243V. Disqualifications for membership.—(1) A person shall be disqualified for being chosen as, and for being, a member of a Municipality—

(a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned:

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;

(b) if he is so disqualified by or under any law made by the Legislature of the State.

(2) If any question arises as to whether a member of a Municipality has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide.

243W. Powers, authority and responsibilities of Municipalities, etc.—Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow—

(a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to—

(i) the preparation of plans for economic development and social justice;

(ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;

(b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.

243X. Power to impose taxes by, and Funds of, the Municipalities.—The Legislature of a State may, by law,—

(a) authorise a Municipality to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;

(Part IXA.—The Municipalities)

(b) assign to a Municipality such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;

(c) provide for making such grants-in-aid to the Municipalities from the Consolidated Fund of the State; and

(d) provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Municipalities and also for the withdrawal of such moneys therefrom,

as may be specified in the law.

243Y. Finance Commission.—(1) The Finance Commission constituted under article 243I shall also review the financial position of the Municipalities and make recommendations to the Governor as to—

(a) the principles which should govern—

(i) the distribution between the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Municipalities at all levels of their respective shares of such proceeds;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Municipalities;

(iii) the grants-in-aid to the Municipalities from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Municipalities;

(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities.

(2) The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

243Z. Audit of accounts of Municipalities.—The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Municipalities and the auditing of such accounts.

243ZA. Elections to the Municipalities.—(1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Municipalities shall be vested in the State Election Commission referred to in article 243K.

(2) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Municipalities.

243ZB. Application to Union territories.—The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were references to the Administrator of the Union territory appointed under article 239 and references to the Legislature or the Legislative Assembly of a State were references in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly:

Provided that the President may, by public notification, direct that the provisions of this Part shall apply to any Union territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

243ZC. Part not to apply to certain areas.—(1) Nothing in this Part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2) of article 244.

(2) Nothing in this Part shall be construed to affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under any law for the time being in force for the hill areas of the district of Darjeeling in the State of West Bengal.

(3) Notwithstanding anything in this Constitution, Parliament may, by law, extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purposes of article 368.

243ZD. Committee for district planning.—(1) There shall be constituted in every State at the district level a District Planning Committee to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district as a whole.

(2) The Legislature of a State may, by law, make provision with respect to—

(a) the composition of the District Planning Committees;

(b) the manner in which the seats in such Committees shall be filled:

Provided that not less than four-fifths of the total number of members of such Committee shall be elected by, and from amongst, the elected members of the Panchayat at the district level and of the Municipalities in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district;

(c) the functions relating to district planning which may be assigned to such Committees;

(d) the manner in which the Chairpersons of such Committees shall be chosen.

(3) Every District Planning Committee shall, in preparing the draft development plan,—

(a) have regard to—

(i) matters of common interest between the Panchayats and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(ii) the extent and type of available resources whether financial or otherwise;

(b) consult such institutions and organisations as the Governor may, by order, specify.

(4) The Chairperson of every District Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

243ZE. Committee for Metropolitan planning.—(1) There shall be constituted in every Metropolitan area a Metropolitan Planning Committee to prepare a draft development plan for the Metropolitan area as a whole.

(2) The Legislature of a State may, by law, make provision with respect to—

(a) the composition of the Metropolitan Planning Committees;

(b) the manner in which the seats in such Committees shall be filled:

THE CONSTITUTION OF INDIA

(Part IXA.—The Municipalities)

Provided that not less than two-thirds of the members of such Committee shall be elected by, and from amongst, the elected members of the Municipalities and Chairpersons of the Panchayats in the Metropolitan area in proportion to the ratio between the population of the Municipalities and of the Panchayats in that area;

(c) the representation in such Committees of the Government of India and the Government of the State and of such organisations and institutions as may be deemed necessary for carrying out the functions assigned to such Committees;

(d) the functions relating to planning and coordination for the Metropolitan area which may be assigned to such Committees;

(e) the manner in which the Chairpersons of such Committees shall be chosen.

(3) Every Metropolitan Planning Committee shall, in preparing the draft development plan,—

(a) have regard to—

(i) the plans prepared by the Municipalities and the Panchayats in the Metropolitan area;

(ii) matters of common interest between the Municipalities and the Panchayats, including coordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(iii) the overall objectives and priorities set by the Government of India and the Government of the State;

(iv) the extent and nature of investments likely to be made in the Metropolitan area by agencies of the Government of India and of the Government of the State and other available resources whether financial or otherwise;

(b) consult such institutions and organisations as the Governor may, by order, specify.

(4) The Chairperson of every Metropolitan Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

243ZF. Continuance of existing laws and Municipalities.—

Notwithstanding anything in this Part, any provision of any law relating to Municipalities in force in a State immediately before the commencement of the Constitution (Seventy-fourth Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

Provided that all the Municipalities existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

243ZG. Bar to interference by courts in electoral matters.—

Notwithstanding anything in this Constitution,—

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 243ZA shall not be called in question in any court;

(b) no election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.]

¹[PART IXB

THE CO-OPERATIVE SOCIETIES

243ZH. Definitions.—In this Part, unless the context otherwise requires,—

(a) “authorised person” means a person referred to as such in article 243ZQ;

(b) “board” means the board of directors or the governing body of a co-operative society, by whatever name called, to which the direction and control of the management of the affairs of a society is entrusted to;

(c) “co-operative society” means a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State;

(d) “multi-State co-operative society” means a society with objects not confined to one State and registered or deemed to be registered under any law for the time being in force relating to such co-operatives;

(e) “Office bearer” means a President, Vice-President, Chairperson, Vice-Chairperson, Secretary or Treasurer, of a co-operative society and includes any other person to be elected by the board of any co-operative society;

(f) “Registrar” means the Central Registrar appointed by the Central Government in relation to the multi-State co-operative societies and the Registrar for co-operative societies appointed by the State Government under the law made by the Legislature of a State in relation to co-operative societies;

(g) “State Act” means any law made by the Legislature of a State;

(h) “State level co-operative society” means a co-operative society having its area of operation extending to the whole of a State and defined as such in any law made by the Legislature of a State.

243ZI. Incorporation of co-operative societies.—Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the incorporation, regulation and winding up of co-operative societies based on the principles of voluntary formation, democratic member-control, member-economic participation and autonomous functioning.

1. Part IXB ins. by the Constitution (Ninety-seventh Amendment) Act, 2011, s. 4
(w.e.f. 15-2-2012).

243ZJ. Number and term of members of board and its office bearers.—(1) The board shall consist of such number of directors as may be provided by the Legislature of a State, by law:

Provided that the maximum number of directors of a co-operative society shall not exceed twenty-one:

Provided further that the Legislature of a State shall, by law, provide for the reservation of one seat for the Scheduled Castes or the Scheduled Tribes and two seats for women on board of every co-operative society consisting of individuals as members and having members from such class of category of persons.

(2) The term of office of elected members of the board and its office bearers shall be five years from the date of election and the term of office bearers shall be conterminous with the term of the board:

Provided that the board may fill a casual vacancy on the board by nomination out of the same class of members in respect of which the casual vacancy has arisen, if the term of office of the board is less than half of its original term.

(3) The Legislature of a State shall, by law, make provisions for co-option of persons to be members of the board having experience in the field of banking, management, finance or specialisation in any other field relating to the objects and activities undertaken by the co-operative society, as members of the board of such society:

Provided that the number of such co-opted members shall not exceed two in addition to twenty-one directors specified in the first proviso to clause (1):

Provided further that such co-opted members shall not have the right to vote in any election of the co-operative society in their capacity as such member or to be eligible to be elected as office bearers of the board:

Provided also that the functional directors of a co-operative society shall also be the members of the board and such members shall be excluded for the purpose of counting the total number of directors specified in the first proviso to clause (1).

243ZK. Election of members of board.—(1) Notwithstanding anything contained in any law made by the Legislature of a State, the election of a board shall be conducted before the expiry of the term of the board so as to ensure that the newly elected members of the board assume office immediately on the expiry of the office of members of the outgoing board.

(2) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to a co-operative society shall vest in such an authority or body, as may be provided by the Legislature of a State, by law:

Provided that the Legislature of a State may, by law, provide for the procedure and guidelines for the conduct of such elections.

243ZL. Supersession and suspension of board and interim management.—(1) Notwithstanding anything contained in any law for the time being in force, no board shall be superseded or kept under suspension for a period exceeding six months:

Provided that the board may be superseded or kept under suspension in a case—

- (i) of its persistent default; or
- (ii) of negligence in the performance of its duties; or
- (iii) the board has committed any act prejudicial to the interests of the co-operative society or its members; or
- (iv) there is stalemate in the constitution or functions of the board; or
- (v) the authority or body as provided by the Legislature of a State, by law, under clause (2) of article 243ZK, has failed to conduct elections in accordance with the provisions of the State Act:

Provided further that the board of any such co-operative society shall not be superseded or kept under suspension where there is no Government shareholding or loan or financial assistance or any guarantee by the Government:

Provided also that in case of a co-operative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949 (10 of 1949) shall also apply:

(Part IXB.—Co-operative Societies)

Provided also that in case of a co-operative society, other than a multi-State co-operative society, carrying on the business of banking, the provisions of this clause shall have the effect as if for the words "six months", the words "one year" had been substituted.

(2) In case of supersession of a board, the administrator appointed to manage the affairs of such co-operative society shall arrange for conduct of elections within the period specified in clause (1) and handover the management to the elected board.

(3) The Legislature of a State may, by law, make provisions for the conditions of service of the administrator.

243ZM. Audit of accounts of co-operative societies.—(1) The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the co-operative societies and the auditing of such accounts at least once in each financial year.

(2) The Legislature of a State shall, by law, lay down the minimum qualifications and experience of auditors and auditing firms that shall be eligible for auditing accounts of the co-operative societies.

(3) Every co-operative society shall cause to be audited by an auditor or auditing firms referred to in clause (2) appointed by the general body of the co-operative society:

Provided that such auditors or auditing firms shall be appointed from a panel approved by a State Government or an authority authorised by the State Government in this behalf.

(4) The accounts of every co-operative society shall be audited within six months of the close of the financial year to which such accounts relate.

(5) The audit report of the accounts of an apex co-operative society, as may be defined by the State Act, shall be laid before the State Legislature in the manner, as may be provided by the State Legislature, by law.

243ZN. Convening of general body meetings.—The Legislature of a State may, by law, make provisions that the annual general body meeting of every co-operative society shall be convened within a period of six months of close of the financial year to transact the business as may be provided in such law.

243ZO. Right of a member to get information.—(1) The Legislature of a State may, by law, provide for access to every member of a co-operative society to the books, information and accounts of the co-operative society kept in regular transaction of its business with such member.

(2) The Legislature of a State may, by law, make provisions to ensure the participation of members in the management of the co-operative society providing minimum requirement of attending meetings by the members and utilising the minimum level of services as may be provided in such law.

(3) The Legislature of a State may, by law, provide for co-operative education and training for its members.

243ZP. Returns.—Every co-operative society shall file returns, within six months of the close of every financial year, to the authority designated by the State Government including the following matters, namely:—

- (a) annual report of its activities;
- (b) its audited statement of accounts;
- (c) plan for surplus disposal as approved by the general body of the co-operative society;
- (d) list of amendments to the bye-laws of the co-operative society, if any;
- (e) declaration regarding date of holding of its general body meeting and conduct of elections when due; and
- (f) any other information required by the Registrar in pursuance of any of the provisions of the State Act.

243ZQ. Offences and penalties.—(1) The Legislature of a State may, by law, make provisions for the offences relating to the co-operative societies and penalties for such offences.

(2) A law made by the Legislature of a State under clause (1) shall include the commission of the following act or omission as offences, namely:—

- (a) a co-operative society or an officer or member thereof wilfully makes a false return or furnishes false information, or any person wilfully not furnishes any information required from him by a person authorised in this behalf under the provisions of the State Act;

(Part IXB.—Co-operative Societies)

(b) any person wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of the State Act;

(c) any employer who, without sufficient cause, fails to pay to a co-operative society amount deducted by him from its employee within a period of fourteen days from the date on which such deduction is made;

(d) any officer or custodian who wilfully fails to handover custody of books, accounts, documents, records, cash, security and other property belonging to a co-operative society of which he is an officer or custodian, to an authorised person; and

(e) whoever, before, during or after the election of members of the board or office bearers, adopts any corrupt practice.

243ZR. Application to multi-State co-operative societies.—The provisions of this Part shall apply to the multi-State co-operative societies subject to the modification that any reference to “Legislature of a State”, “State Act” or “State Government” shall be construed as a reference to “Parliament”, “Central Act” or “the Central Government” respectively.

243ZS. Application to Union territories.—The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, having no Legislative Assembly as if the references to the Legislature of a State were a reference to the administrator thereof appointed under article 239 and, in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly:

Provided that the President may, by notification in the Official Gazette, direct that the provisions of this Part shall not apply to any Union territory or part thereof as he may specify in the notification.

243ZT. Continuance of existing laws.— Notwithstanding anything in this Part, any provision of any law relating to co-operative societies in force in a State immediately before the commencement of the Constitution (Ninety-seventh Amendment) Act, 2011, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is less.]

PART X

THE SCHEDULED AND TRIBAL AREAS

244. Administration of Scheduled Areas and Tribal Areas.—(1) The provisions of the Fifth Schedule shall apply to the administration and control of the Scheduled Areas and Scheduled Tribes in any State ^{1***} other than ²[the States of Assam, ³[, ⁴[Meghalaya, Tripura and Mizoram]]].

(2) The provisions of the Sixth Schedule shall apply to the administration of the tribal areas in ²[the States of Assam, ³[, ⁵[Meghalaya, Tripura and Mizoram]]].

⁶[244A. Formation of an autonomous State comprising certain tribal areas in Assam and creation of local Legislature or Council of Ministers or both therefor.]—(1) Notwithstanding anything in this Constitution, Parliament may, by law, form within the State of Assam an autonomous State comprising (whether wholly or in part) all or any of the tribal areas specified in ⁷[Part I] of the table appended to paragraph 20 of the Sixth Schedule and create therefor—

(a) a body, whether elected or partly nominated and partly elected, to function as a Legislature for the autonomous State, or

(b) a Council of Ministers,

or both with such constitution, powers and functions, in each case, as may be specified in the law.

(2) Any such law as is referred to in clause (1) may, in particular,—

1. The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).
2. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71, for "the State of Assam" (w.e.f. 21-1-1972).
3. Subs. by the Constitution (Forty-ninth Amendment) Act, 1984, s. 2, for "and Meghalaya" (w.e.f. 1-4-1985).
4. Subs. by the State of Mizoram Act, 1986 (34 of 1986), s. 39, for "Meghalaya and Tripura" (w.e.f. 20-2-1987).
5. Subs. by s. 39, *ibid.*, for "Meghalaya and Tripura and the Union territory of Mizoram". (w.e.f. 20-2-1987).
6. Ins. by the Constitution (Twenty-second Amendment) Act, 1969, s. 2 (w.e.f. 25-9-1969).
7. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71, for "Part A" (w.e.f. 21-1-1972).

THE CONSTITUTION OF INDIA

(Part X.—The Scheduled and Tribal Areas)

(a) specify the matters enumerated in the State List or the Concurrent List with respect to which the Legislature of the autonomous State shall have power to make laws for the whole or any part thereof, whether to the exclusion of the Legislature of the State of Assam or otherwise;

(b) define the matters with respect to which the executive power of the autonomous State shall extend;

(c) provide that any tax levied by the State of Assam shall be assigned to the autonomous State in so far as the proceeds thereof are attributable to the autonomous State;

(d) provide that any reference to a State in any article of this Constitution shall be construed as including a reference to the autonomous State; and

(e) make such supplemental, incidental and consequential provisions as may be deemed necessary.

(3) An amendment of any such law as aforesaid in so far as such amendment relates to any of the matters specified in sub-clause (a) or sub-clause (b) of clause (2) shall have no effect unless the amendment is passed in each House of Parliament by not less than two-thirds of the members present and voting.

(4) Any such law as is referred to in this article shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending this Constitution.]

PART XI
RELATIONS BETWEEN THE UNION AND THE STATES
CHAPTER I.—LEGISLATIVE RELATIONS

Distribution of Legislative Powers

245. Extent of laws made by Parliament and by the Legislatures of States.—(1) Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State.

(2) No law made by Parliament shall be deemed to be invalid on the ground that it would have extra-territorial operation.

246. Subject-matter of laws made by Parliament and by the Legislatures of States.—(1) Notwithstanding anything in clauses (2) and (3), Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the “Union List”).

(2) Notwithstanding anything in clause (3), Parliament, and, subject to clause (1), the Legislature of any State ^{1***} also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the “Concurrent List”).

(3) Subject to clauses (1) and (2), the Legislature of any State ^{1***} has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the “State List”).

(4) Parliament has power to make laws with respect to any matter for any part of the territory of India not included ²[in a State] notwithstanding that such matter is a matter enumerated in the State List.

³[246A. Special provision with respect to goods and services tax.]—(1) Notwithstanding anything contained in articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.

-
1. The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).
 2. Subs. by s. 29 and Sch., *ibid.*, for "in Part A or Part B of the First Schedule" (w.e.f. 1-11-1956).
 3. Ins. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 2 (w.e.f. 16-9-2016).

(Part XI.—Relations between the Union and the States)

(2) Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

Explanation.—The provisions of this article, shall, in respect of goods and services tax referred to in clause (5) of article 279A, take effect from the date recommended by the Goods and Services Tax Council.]

247. Power of Parliament to provide for the establishment of certain additional courts.—Notwithstanding anything in this Chapter, Parliament may by law provide for the establishment of any additional courts for the better administration of laws made by Parliament or of any existing laws with respect to a matter enumerated in the Union List.

248. Residuary powers of legislation.—(1) ¹[Subject to article 246A, Parliament] has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List.

(2) Such power shall include the power of making any law imposing a tax not mentioned in either of those Lists.

249. Power of Parliament to legislate with respect to a matter in the State List in the national interest.—(1) Notwithstanding anything in the foregoing provisions of this Chapter, if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest that Parliament should make laws with respect to ²[goods and services tax provided under article 246A or] any matter enumerated in the State List specified in the resolution, it shall be lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter while the resolution remains in force.

(2) A resolution passed under clause (1) shall remain in force for such period not exceeding one year as may be specified therein:

Provided that, if and so often as a resolution approving the continuance in force of any such resolution is passed in the manner provided in clause (1), such resolution shall continue in force for a further period of one year from the date on which under this clause it would otherwise have ceased to be in force.

(3) A law made by Parliament which Parliament would not but for the passing of a resolution under clause (1) have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the resolution has ceased to be in force, except as respects things done or omitted to be done before the expiration of the said period.

1. Subs. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 3, for "Parliament" (w.e.f. 16-9-2016).

2. Ins. by s. 4, *ibid.* (w.e.f. 16-9-2016).

(Part XI.—Relations between the Union and the States)

250. Power of Parliament to legislate with respect to any matter in the State List if a Proclamation of Emergency is in operation.—(1) Notwithstanding anything in this Chapter, Parliament shall, while a Proclamation of Emergency is in operation, have power to make laws for the whole or any part of the territory of India with respect to ¹[goods and services tax provided under article 246A or] any of the matters enumerated in the State List.

(2) A law made by Parliament which Parliament would not but for the issue of a Proclamation of Emergency have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate, except as respects things done or omitted to be done before the expiration of the said period.

251. Inconsistency between laws made by Parliament under articles 249 and 250 and laws made by the Legislatures of States.—Nothing in articles 249 and 250 shall restrict the power of the Legislature of a State to make any law which under this Constitution it has power to make, but if any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament has under either of the said articles power to make, the law made by Parliament, whether passed before or after the law made by the Legislature of the State, shall prevail, and the law made by the Legislature of the State shall to the extent of the repugnancy, but so long only as the law made by Parliament continues to have effect, be inoperative.

252. Power of Parliament to legislate for two or more States by consent and adoption of such legislation by any other State.—(1) If it appears to the Legislatures of two or more States to be desirable that any of the matters with respect to which Parliament has no power to make laws for the States except as provided in articles 249 and 250 should be regulated in such States by Parliament by law, and if resolutions to that effect are passed by all the Houses of the Legislatures of those States, it shall be lawful for Parliament to pass an act for regulating that matter accordingly, and any Act so passed shall apply to such States and to any other State by which it is adopted afterwards by resolution passed in that behalf by the House or, where there are two Houses, by each of the Houses of the Legislature of that State.

1. Ins. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 5 (w.e.f. 16-9-2016).

(Part XI.—Relations between the Union and the States)

(2) Any Act so passed by Parliament may be amended or repealed by an Act of Parliament passed or adopted in like manner but shall not, as respects any State to which it applies, be amended or repealed by an Act of the Legislature of that State.

253. Legislation for giving effect to international agreements.—Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body.

254. Inconsistency between laws made by Parliament and laws made by the Legislatures of States.—(1) If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.

(2) Where a law made by the Legislature of a State ^{1***} with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an earlier law made by Parliament or an existing law with respect to that matter, then, the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail in that State:

Provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of the State.

255. Requirements as to recommendations and previous sanctions to be regarded as matters of procedure only.—No Act of Parliament or of the Legislature of a State ^{1***}, and no provision in any such Act, shall be invalid by reason only that some recommendation or previous sanction required by this Constitution was not given, if assent to that Act was given—

1. The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

THE CONSTITUTION OF INDIA

(Part XI.—Relations between the Union and the States)

- (a) where the recommendation required was that of the Governor, either by the Governor or by the President;
- (b) where the recommendation required was that of the Rajpramukh, either by the Rajpramukh or by the President;
- (c) where the recommendation or previous sanction required was that of the President, by the President.

CHAPTER II.—ADMINISTRATIVE RELATIONS

General

256. Obligation of States and the Union.—The executive power of every State shall be so exercised as to ensure compliance with the laws made by Parliament and any existing laws which apply in that State, and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose:

257. Control of the Union over States in certain cases.—(1) The executive power of every State shall be so exercised as not to impede or prejudice the exercise of the executive power of the Union, and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose.

(2) The executive power of the Union shall also extend to the giving of directions to a State as to the construction and maintenance of means of communication declared in the direction to be of national or military importance:

Provided that nothing in this clause shall be taken as restricting the power of Parliament to declare highways or waterways to be national highways or national waterways or the power of the Union with respect to the highways or waterways so declared or the power of the Union to construct and maintain means of communication as part of its functions with respect to naval, military and air force works.

(3) The executive power of the Union shall also extend to the giving of directions to a State as to the measures to be taken for the protection of the railways within the State.

(4) Where in carrying out any direction given to a State under clause (2) as to the construction or maintenance of any means of communication or under clause (3) as to the measures to be taken for the protection of any railway, costs have been incurred in excess of those which would have been incurred in the discharge of the normal duties of the State if such direction had not been given, there shall be paid by the Government of India to the State such sum as may be agreed, or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India, in respect of the extra costs so incurred by the State.

(Part XI.—Relations between the Union and the States)

¹[**257A.** *[Assistance to States by deployment of armed forces or other forces of the Union.]—Omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 33 (w.e.f. 20-6-1979).]*

258. Power of the Union to confer powers, etc., on States in certain cases.—(1) Notwithstanding anything in this Constitution, the President may, with the consent of the Government of a State, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the executive power of the Union extends.

(2) A law made by Parliament which applies in any State may, notwithstanding that it relates to a matter with respect to which the Legislature of the State has no power to make laws, confer powers and impose duties, or authorise the conferring of powers and the imposition of duties, upon the State or officers and authorities thereof.

(3) Where by virtue of this article powers and duties have been conferred or imposed upon a State or officers or authorities thereof, there shall be paid by the Government of India to the State such sum as may be agreed, or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India, in respect of any extra costs of administration incurred by the State in connection with the exercise of those powers and duties.

²[**258A. Power of the States to entrust functions to the Union.**—Notwithstanding anything in this Constitution, the Governor of a State may, with the consent of the Government of India, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the executive power of the State extends.]

[259. Armed Forces in States in Part B of the First Schedule.]—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

260. Jurisdiction of the Union in relation to territories outside India.—The Government of India may by agreement with the Government of any territory not being part of the territory of India undertake any executive, legislative or judicial functions vested in the Government of such territory, but every such agreement shall be subject to, and governed by, any law relating to the exercise of foreign jurisdiction for the time being in force.

1. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 43 (w.e.f. 3-1-1977).

2. Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 18 (w.e.f. 1-11-1956).

(Part XI.—Relations between the Union and the States)

261. Public acts, records and judicial proceedings.—(1) Full faith and credit shall be given throughout the territory of India to public acts, records and judicial proceedings of the Union and of every State.

(2) The manner in which and the conditions under which the acts, records and proceedings referred to in clause (1) shall be proved and the effect thereof determined shall be as provided by law made by Parliament.

(3) Final judgments or orders delivered or passed by civil courts in any part of the territory of India shall be capable of execution anywhere within that territory according to law.

Disputes relating to Waters

262. Adjudication of disputes relating to waters of inter-State rivers or river valleys.—(1) Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-State river or river valley.

(2) Notwithstanding anything in this Constitution, Parliament may by law provide that neither the Supreme Court nor any other court shall exercise jurisdiction in respect of any such dispute or complaint as is referred to in clause (1).

Co-ordination between States

263. Provisions with respect to an inter-State Council.—If at any time it appears to the President that the public interests would be served by the establishment of a Council charged with the duty of—

(a) inquiring into and advising upon disputes which may have arisen between States;

(b) investigating and discussing subjects in which some or all of the States, or the Union and one or more of the States, have a common interest; or

(c) making recommendations upon any such subject and, in particular, recommendations for the better co-ordination of policy and action with respect to that subject,

it shall be lawful for the President by order to establish such a Council, and to define the nature of the duties to be performed by it and its organisation and procedure.

PART XII
FINANCE, PROPERTY, CONTRACTS AND SUITS
CHAPTER I.—FINANCE

General

¹[**264. Interpretation.**—In this Part, “Finance Commission” means a Finance Commission constituted under article 280.]

265. Taxes not to be imposed save by authority of law.—No tax shall be levied or collected except by authority of law.

266. Consolidated Funds and public accounts of India and of the States.—(1) Subject to the provisions of article 267 and to the provisions of this Chapter with respect to the assignment of the whole or part of the net proceeds of certain taxes and duties to States, all revenues received by the Government of India, all loans raised by that Government by the issue of treasury bills, loans or ways and means advances and all moneys received by that Government in repayment of loans shall form one consolidated fund to be entitled “the Consolidated Fund of India”, and all revenues received by the Government of a State, all loans raised by that Government by the issue of treasury bills, loans or ways and means advances and all moneys received by that Government in repayment of loans shall form one consolidated fund to be entitled “the Consolidated Fund of the State”.

(2) All other public moneys received by or on behalf of the Government of India or the Government of a State shall be credited to the public account of India or the public account of the State, as the case may be.

(3) No moneys out of the Consolidated Fund of India or the Consolidated Fund of a State shall be appropriated except in accordance with law and for the purposes and in the manner provided in this Constitution.

267. Contingency Fund.—(1) Parliament may by law establish a Contingency Fund in the nature of an imprest to be entitled “the Contingency Fund of India” into which shall be paid from time to time such sums as may be determined by such law, and the said Fund shall be placed at the disposal of the President to enable advances to be made by him out of such Fund for the purposes of meeting unforeseen expenditure pending authorisation of such expenditure by Parliament by law under article 115 or article 116.

1 Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch., for art. 264 (w.e.f. 1-11-1956).

(2) The Legislature of a State may by law establish a Contingency Fund in the nature of an imprest to be entitled "the Contingency Fund of the State" into which shall be paid from time to time such sums as may be determined by such law, and the said Fund shall be placed at the disposal of the Governor^{1***} of the State to enable advances to be made by him out of such Fund for the purposes of meeting unforeseen expenditure pending authorisation of such expenditure by the Legislature of the State by law under article 205 or article 206.

Distribution of Revenues between the Union and the States

268. Duties levied by the Union but collected and appropriated by the States.—(1) Such stamp duties^{2***} as are mentioned in the Union List shall be levied by the Government of India but shall be collected—

- (a) in the case where such duties are leviable within any³[Union territory], by the Government of India, and
- (b) in other cases, by the States within which such duties are respectively leviable.

(2) The proceeds in any financial year of any such duty leviable within any State shall not form part of the Consolidated Fund of India, but shall be assigned to that State.

⁴268A. [Service tax levied by Union and collected and appropriated by the Union and the States.]—Omitted by the Constitution (One Hundred and First Amendment) Act, 2016, s. 7 (w.e.f. 16-9-2016).

-
- 1. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).
 - 2. The words "and such duties of excise on medicinal and toilet preparations" omitted by the Constitution (One Hundred and First Amendment) Act, 2016, s. 6, (w.e.f. 16-9-2016).
 - 3. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch., for "State Specified in Part C of the First Schedule" (w.e.f. 1-11-1956).
 - 4. Ins. by the Constitution (Eighty-eighth Amendment) Act, 2003, s. 2 (date not notified).

(Part XII.—Finance, Property, Contracts and Suits)

269. Taxes levied and collected by the Union but assigned to the States.—¹[(1) Taxes on the sale or purchase of goods and taxes on the consignment of goods ²[except as provided in article 269A] shall be levied and collected by the Government of India but shall be assigned and shall be deemed to have been assigned to the States on or after the 1st day of April, 1996 in the manner provided in clause (2).

Explanation.—For the purposes of this clause,—

(a) the expression "taxes on the sale or purchase of goods" shall mean taxes on sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce;

(b) the expression "taxes on the consignment of goods" shall mean taxes on the consignment of goods (whether the consignment is to the person making it or to any other person), where such consignment takes place in the course of inter-State trade or commerce.

(2) The net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributable to Union territories, shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that tax is leviable in that year, and shall be distributed among those States in accordance with such principles of distribution as may be formulated by Parliament by law.]

³[(3) Parliament may by law formulate principles for determining when a ⁴[sale or purchase of, or consignment of goods] takes place in the course of inter-State trade or commerce.]

⁵[269A. Levy and collection of goods and services tax in course of inter-State trade or commerce.]—(1) Goods and services tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

-
1. Subs. by the Constitution (Eightieth Amendment) Act, 2000. s. 2, for cl. (I) and (2) (w.e.f. 9-6-2000).
 2. Ins. by the Constitution (One Hundred and First Amendment) Act, 2016 s. 8, (w.e.f. 16-9-2016).
 3. Ins. by the Constitution (Sixth Amendment) Act, 1956, s. 3 (w.e.f. 11-9-1956).
 4. Subs. by the Constitution (Forty-sixth Amendment) Act, 1982. s. 2, for "sale or purchase of goods" (w.e.f. 2-2-1983).
 5. Ins. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 9 (w.e.f. 16-9-2016).

(Part XII.—Finance, Property, Contracts and Suits)

Explanation.—For the purposes of this clause, supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.

(2) The amount apportioned to a State under clause (1) shall not form part of the Consolidated Fund of India.

(3) Where an amount collected as tax levied under clause (1) has been used for payment of the tax levied by a State under article 246A, such amount shall not form part of the Consolidated Fund of India.

(4) Where an amount collected as tax levied by a State under article 246A has been used for payment of the tax levied under clause (1), such amount shall not form part of the Consolidated Fund of the State.

(5) Parliament may, by law, formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.]

¹[270. Taxes levied and distributed between the Union and the States.]—(1) All taxes and duties referred to in the Union List, except the duties and taxes referred to in ²[articles 268, 269 and 269A], respectively, surcharge on taxes and duties referred to in article 271 and any cess levied for specific purposes under any law made by Parliament shall be levied and collected by the Government of India and shall be distributed between the Union and the States in the manner provided in clause (2).

³[(1A) The tax collected by the Union under clause (1) of article 246A shall also be distributed between the Union and the States in the manner provided in clause (2).]

(1B) The tax levied and collected by the Union under clause (2) of article 246A and article 269A, which has been used for payment of the tax levied by the Union under clause (1) of article 246A, and the amount apportioned to the Union under clause (1) of article 269A, shall also be distributed between the Union and the States in the manner provided in clause (2).]

1. Subs. by the Constitution (Eightieth Amendment) Act, 2000, s. 3, for art. 270 (w.e.f. 1-4-1996).

2. Subs. by the Constitution (Eighty-eighth Amendment) Act, 2003, s. 3, for “articles 268 and 269” (not enforced) and further subs. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 10, for “arts. 268, 268A and 269” (w.e.f. 16-9-2016).

3. Ins. by s. 10, *ibid.* (w.e.f. 16-9-2016).

(Part XII.—Finance, Property, Contracts and Suits)

(2) Such percentage, as may be prescribed, of the net proceeds of any such tax or duty in any financial year shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that tax or duty is leviable in that year, and shall be distributed among those States in such manner and from such time as may be prescribed in the manner provided in clause (3).

(3) In this article, "prescribed" means,—

(i) until a Finance Commission has been constituted, prescribed by the President by order, and

(ii) after a Finance Commission has been constituted, prescribed by the President by order after considering the recommendations of the Finance Commission.]

271. Surcharge on certain duties and taxes for purposes of the Union.—Notwithstanding anything in articles 269 and 270, Parliament may at any time increase any of the duties or taxes referred to in those articles¹ [except the goods and services tax under article 246A,] by a surcharge for purposes of the Union and the whole proceeds of any such surcharge shall form part of the Consolidated Fund of India.

[**272. Taxes which are levied and collected by the Union and may be distributed between the Union and the States.**]—Omitted by the Constitution (Eightieth Amendment) Act, 2000, s. 4. (w.e.f. 9-6-2000).

273. Grants in lieu of export duty on jute and jute products.—(1) There shall be charged on the Consolidated Fund of India in each year as grants-in-aid of the revenues of the States of Assam, Bihar,² [Odisha] and West Bengal, in lieu of assignment of any share of the net proceeds in each year of export duty on jute and jute products to those States, such sums as may be prescribed.

(2) The sums so prescribed shall continue to be charged on the Consolidated Fund of India so long as any export duty on jute or jute products continues to be levied by the Government of India or until the expiration of ten years from the commencement of this Constitution whichever is earlier.

1. Ins. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 11 (w.e.f. 16-9-2016).

2. Subs. by the Orissa (Alteration of Name) Act, 2011 (15 of 2011), s. 5, for "Orissa" (w.e.f. 1-11-2011).

(Part XII.—Finance, Property, Contracts and Suits)

(3) In this article, the expression “prescribed” has the same meaning as in article 270.

274. Prior recommendation of President required to Bills affecting taxation in which States are interested.—(1) No Bill or amendment which imposes or varies any tax or duty in which States are interested, or which varies the meaning of the expression “agricultural income” as defined for the purposes of the enactments relating to Indian income-tax, or which affects the principles on which under any of the foregoing provisions of this Chapter moneys are or may be distributable to States, or which imposes any such surcharge for the purposes of the Union as is mentioned in the foregoing provisions of this Chapter, shall be introduced or moved in either House of Parliament except on the recommendation of the President.

(2) In this article, the expression “tax or duty in which States are interested” means—

(a) a tax or duty the whole or part of the net proceeds whereof are assigned to any State; or

(b) a tax or duty by reference to the net proceeds whereof sums are for the time being payable out of the Consolidated Fund of India to any State.

275. Grants from the Union to certain States.—(1) Such sums as Parliament may by law provide shall be charged on the Consolidated Fund of India in each year as grants-in-aid of the revenues of such States as Parliament may determine to be in need of assistance, and different sums may be fixed for different States:

Provided that there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of a State such capital and recurring sums as may be necessary to enable that State to meet the costs of such schemes of development as may be undertaken by the State with the approval of the Government of India for the purpose of promoting the welfare of the Scheduled Tribes in that State or raising the level of administration of the Scheduled Areas therein to that of the administration of the rest of the areas of that State:

Provided further that there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of the State of Assam sums, capital and recurring, equivalent to—

THE CONSTITUTION OF INDIA

(Part XII.—Finance, Property, Contracts and Suits)

(a) the average excess of expenditure over the revenues during the two years immediately preceding the commencement of this Constitution in respect of the administration of the tribal areas specified in ¹[Part I] of the table appended to paragraph 20 of the Sixth Schedule; and

(b) the costs of such schemes of development as may be undertaken by that State with the approval of the Government of India for the purpose of raising the level of administration of the said areas to that of the administration of the rest of the areas of that State.

²[(1A) On and from the formation of the autonomous State under article 244A,—

(i) any sums payable under clause (a) of the second proviso to clause (1) shall, if the autonomous State comprises all the tribal areas referred to therein, be paid to the autonomous State, and, if the autonomous State comprises only some of those tribal areas, be apportioned between the State of Assam and the autonomous State as the President may, by order, specify;

(ii) there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of the autonomous State sums, capital and recurring, equivalent to the costs of such schemes of development as may be undertaken by the autonomous State with the approval of the Government of India for the purpose of raising the level of administration of that State to that of the administration of the rest of the State of Assam.]

(2) Until provision is made by Parliament under clause (1), the powers conferred on Parliament under that clause shall be exercisable by the President by order and any order made by the President under this clause shall have effect subject to any provision so made by Parliament:

Provided that after a Finance Commission has been constituted no order shall be made under this clause by the President except after considering the recommendations of the Finance Commission.

276. Taxes on professions, trades, callings and employments.—(1) Notwithstanding anything in article 246, no law of the Legislature of a State relating to taxes for the benefit of the State or of a municipality, district board, local board or other local authority therein in respect of professions, trades, callings or employments shall be invalid on the ground that it relates to a tax on income.

1. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971) s. 71, for "Part A" (w.e.f. 21-1-1972).

2. Ins. by the Constitution (Twenty-second Amendment) Act, 1969, s. 3 (w.e.f. 25-9-1969).

(Part XII.—Finance, Property, Contracts and Suits)

(2) The total amount payable in respect of any one person to the State or to any one municipality, district board, local board or other local authority in the State by way of taxes on professions, trades, callings and employments shall not exceed¹[two thousand and five hundred rupees] per annum.

2* * * *

(3) The power of the Legislature of a State to make laws as aforesaid with respect to taxes on professions, trades, callings and employments shall not be construed as limiting in any way the power of Parliament to make laws with respect to taxes on income accruing from or arising out of professions, trades, callings and employments.

277. Savings.—Any taxes, duties, cesses or fees which, immediately before the commencement of this Constitution, were being lawfully levied by the Government of any State or by any municipality or other local authority or body for the purposes of the State, municipality, district or other local area may, notwithstanding that those taxes, duties, cesses or fees are mentioned in the Union List, continue to be levied and to be applied to the same purposes until provision to the contrary is made by Parliament by law.

278. [Agreement with States in Part B of the First Schedule with regard to certain financial matters].—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.(w.e.f. 1-11-1956).

279. Calculation of “net proceeds”, etc.—(1) In the foregoing provisions of this Chapter, “net proceeds” means in relation to any tax or duty the proceeds thereof reduced by the cost of collection, and for the purposes of those provisions the net proceeds of any tax or duty, or of any part of any tax or duty, in or attributable to any area shall be ascertained and certified by the Comptroller and Auditor-General of India, whose certificate shall be final.

(2) Subject as aforesaid, and to any other express provision of this Chapter, a law made by Parliament or an order of the President may, in any case where under this Part the proceeds of any duty or tax are, or may be, assigned to any State, provide for the manner in which the proceeds are to be calculated, for the time from or at which and the manner in which any payments are to be made, for the making of adjustments between one financial year and another, and for any other incidental or ancillary matters.

1. Subs. by the Constitution (Sixtieth Amendment) Act, 1988, s. 2, for "two hundred and fifty rupees" (w.e.f. 20-12-1988).

2. Proviso omitted by s.2, *ibid.* (w.e.f. 20-12-1988).

(Part XII.—Finance, Property, Contracts and Suits)

¹[**279A. Goods and Services Tax Council.**—(1) The President shall, within sixty days from the date of commencement of the Constitution (One Hundred and First Amendment) Act, 2016, by order, constitute a Council to be called the Goods and Services Tax Council.

(2) The Goods and Services Tax Council shall consist of the following members, namely:—

(a) the Union Finance Minister — Chairperson;

(b) the Union Minister of State in charge of Revenue or Finance — Member;

(c) the Minister in charge of Finance or Taxation or any other Minister nominated by each State Government — Members.

(3) The Members of the Goods and Services Tax Council referred to in sub-clause (c) of clause (2) shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide.

(4) The Goods and Services Tax Council shall make recommendations to the Union and the States on—

(a) the taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax;

(b) the goods and services that may be subjected to, or exempted from, the goods and services tax;

(c) model Goods and Services Tax Laws, principles of levy, apportionment of Goods and Services Tax levied on supplies in the course of inter-State trade or commerce under article 269A and the principles that govern the place of supply;

(d) the threshold limit of turnover below which goods and services may be exempted from goods and services tax;

(e) the rates including floor rates with bands of goods and services tax;

(f) any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;

1. Ins. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 12 (w.e.f. 12-9-2016).

(Part XII.—Finance, Property, Contracts and Suits)

(g) special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and

(h) any other matter relating to the goods and services tax, as the Council may decide.

(5) The Goods and Services Tax Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.

(6) While discharging the functions conferred by this article, the Goods and Services Tax Council shall be guided by the need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.

(7) One-half of the total number of Members of the Goods and Services Tax Council shall constitute the quorum at its meetings.

(8) The Goods and Services Tax Council shall determine the procedure in the performance of its functions.

(9) Every decision of the Goods and Services Tax Council shall be taken at a meeting, by a majority of not less than three-fourths of the weighted votes of the members present and voting, in accordance with the following principles, namely:—

(a) the vote of the Central Government shall have a weightage of one-third of the total votes cast; and

(b) the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast, in that meeting.

(10) No act or proceedings of the Goods and Services Tax Council shall be invalid merely by reason of—

(a) any vacancy in, or any defect in, the constitution of the Council; or

(b) any defect in the appointment of a person as a Member of the Council; or

(c) any procedural irregularity of the Council not affecting the merits of the case.

(11) The Goods and Services Tax Council shall establish a mechanism to adjudicate any dispute—

(Part XII.—Finance, Property, Contracts and Suits)

(a) between the Government of India and one or more States; or

(b) between the Government of India and any State or States on one side and one or more other States on the other side; or

(c) between two or more States,

arising out of the recommendations of the Council or implementation thereof.]

280. Finance Commission.—(1) The President shall, within two years from the commencement of this Constitution and thereafter at the expiration of every fifth year or at such earlier time as the President considers necessary, by order constitute a Finance Commission which shall consist of a Chairman and four other members to be appointed by the President.

(2) Parliament may by law determine the qualifications which shall be requisite for appointment as members of the Commission and the manner in which they shall be selected.

(3) It shall be the duty of the Commission to make recommendations to the President as to—

(a) the distribution between the Union and the States of the net proceeds of taxes which are to be, or may be, divided between them under this Chapter and the allocation between the States of the respective shares of such proceeds;

(b) the principles which should govern the grants-in-aid of the revenues of the States out of the Consolidated Fund of India;

¹[(bb) the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Panchayats in the State on the basis of the recommendations made by the Finance Commission of the State;]

²[(c) the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Municipalities in the State on the basis of the recommendations made by the Finance Commission of the State;]

³[(d)] any other matter referred to the Commission by the President in the interests of sound finance.

(4) The Commission shall determine their procedure and shall have such powers in the performance of their functions as Parliament may by law confer on them.

1. Ins. by the Constitution (Seventy-third Amendment) Act, 1992, s. 3 (w.e.f. 24-4-1993).

2. Ins. by the Constitution (Seventy-fourth Amendment) Act, 1992, s. 3 (w.e.f. 1-6-1993).

3. Sub-clause (c) re-lettered as sub-clause (d) by s. 3, *ibid.* (w.e.f. 1-6-1993).

(Part XII.—Finance, Property, Contracts and Suits)

281. Recommendations of the Finance Commission.—The President shall cause every recommendation made by the Finance Commission under the provisions of this Constitution together with an explanatory memorandum as to the action taken thereon to be laid before each House of Parliament.

Miscellaneous Financial Provisions

282. Expenditure defrayable by the Union or a State out of its revenues.—The Union or a State may make any grants for any public purpose, notwithstanding that the purpose is not one with respect to which Parliament or the Legislature of the State, as the case may be, may make laws.

283. Custody, etc., of Consolidated Funds, Contingency Funds and moneys credited to the public accounts.—(1) The custody of the Consolidated Fund of India and the Contingency Fund of India, the payment of moneys into such Funds, the withdrawal of moneys therefrom, the custody of public moneys other than those credited to such Funds received by or on behalf of the Government of India, their payment into the public account of India and the withdrawal of moneys from such account and all other matters connected with or ancillary to matters aforesaid shall be regulated by law made by Parliament, and, until provision in that behalf is so made, shall be regulated by rules made by the President.

(2) The custody of the Consolidated Fund of a State and the Contingency Fund of a State, the payment of moneys into such Funds, the withdrawal of moneys therefrom, the custody of public moneys other than those credited to such Funds received by or on behalf of the Government of the State, their payment into the public account of the State and the withdrawal of moneys from such account and all other matters connected with or ancillary to matters aforesaid shall be regulated by law made by the Legislature of the State, and, until provision in that behalf is so made, shall be regulated by rules made by the Governor^{1***} of the State.

284. Custody of suitors' deposits and other moneys received by public servants and courts.—All moneys received by or deposited with—

(a) any officer employed in connection with the affairs of the Union or of a State in his capacity as such, other than revenues or public moneys raised or received by the Government of India or the Government of the State, as the case may be; or

(b) any court within the territory of India to the credit of any cause, matter, account or persons,

1. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

(Part XII.—Finance, Property, Contracts and Suits)

shall be paid into the public account of India or the public account of State, as the case may be.

285. Exemption of property of the Union from State taxation.—(1) The property of the Union shall, save in so far as Parliament may by law otherwise provide, be exempt from all taxes imposed by a State or by any authority within a State.

(2) Nothing in clause (1) shall, until Parliament by law otherwise provides, prevent any authority within a State from levying any tax on any property of the Union to which such property was immediately before the commencement of this Constitution liable or treated as liable, so long as that tax continues to be levied in that State.

286. Restrictions as to imposition of tax on the sale or purchase of goods.—(1) No law of a State shall impose, or authorise the imposition of, a tax on ¹[the supply of goods or of services or both, where such supply takes place]—

(a) outside the State; or

(b) in the course of the import of the ²[goods or services or both] into, or export of the ²[goods or services or both] out of, the territory of India.

³[* * * *]

⁴[(2) Parliament may by law formulate principles for determining when a ⁵[supply of goods or of services or both] in any of the ways mentioned in clause (1).]

⁶[(3) * * * *]

287. Exemption from taxes on electricity.—Save in so far as Parliament may by law otherwise provide, no law of a State shall impose, or authorise the imposition of, a tax on the consumption or sale of electricity

1. Subs. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 13, (i)(A) for "the sale or purchase of goods where such sale or purchase takes place" (w.e.f. 16-9-2016).

2. Subs. by s. 13 (i)(B), *ibid.*, for "goods" (w.e.f. 16-9-2016).

3. *Explanation* to cl. (1) omitted by the Constitution (Sixth Amendment) Act, 1956, s. 4 (w.e.f. 11-9-1956).

4. Subs. by s.4, *ibid.*, for cls. (2) and (3) (w.e.f. 11-9-1956).

5. Subs. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 13(ii), for "sale or purchase of goods takes place" (w.e.f. 16-9-2016).

6. Cl. (3) omitted by s. 13 (iii), *ibid.* (w.e.f. 16-9-2016).

(Part XII.—Finance, Property, Contracts and Suits)

(whether produced by a Government or other persons) which is—

(a) consumed by the Government of India, or sold to the Government of India for consumption by that Government; or

(b) consumed in the construction, maintenance or operation of any railway by the Government of India or a railway company operating that railway, or sold to that Government or any such railway company for consumption in the construction, maintenance or operation of any railway,

and any such law imposing, or authorising the imposition of, a tax on the sale of electricity shall secure that the price of electricity sold to the Government of India for consumption by that Government, or to any such railway company as aforesaid for consumption in the construction, maintenance or operation of any railway, shall be less by the amount of the tax than the price charged to other consumers of a substantial quantity of electricity.

288. Exemption from taxation by States in respect of water or electricity in certain cases.—(1) Save so far as the President may by order otherwise provide, no law of a State in force immediately before the commencement of this Constitution shall impose, or authorise the imposition of, a tax in respect of any water or electricity stored, generated, consumed, distributed or sold by any authority established by any existing law or any law made by Parliament for regulating or developing any inter-State river or river-valley.

Explanation.—The expression “law of a State in force” in this clause shall include a law of a State passed or made before the commencement of this Constitution and not previously repealed, notwithstanding that it or parts of it may not be then in operation either at all or in particular areas.

(2) The Legislature of a State may by law impose, or authorise the imposition of, any such tax as is mentioned in clause (1), but no such law shall have any effect unless it has, after having been reserved for the consideration of the President, received his assent; and if any such law provides for the fixation of the rates and other incidents of such tax by means of rules or orders to be made under the law by any authority, the law shall provide for the previous consent of the President being obtained to the making of any such rule or order.

289. Exemption of property and income of a State from Union taxation.—(1) The property and income of a State shall be exempt from Union taxation.

(Part XII.—Finance, Property, Contracts and Suits)

(2) Nothing in clause (1) shall prevent the Union from imposing, or authorising the imposition of, any tax to such extent, if any, as Parliament may by law provide in respect of a trade or business of any kind carried on by, or on behalf of, the Government of a State, or any operations connected therewith, or any property used or occupied for the purposes of such trade or business, or any income accruing or arising in connection therewith.

(3) Nothing in clause (2) shall apply to any trade or business, or to any class of trade or business, which Parliament may by law declare to be incidental to the ordinary functions of Government.

290. Adjustment in respect of certain expenses and pensions.—Where under the provisions of this Constitution the expenses of any court or Commission, or the pension payable to or in respect of a person who has served before the commencement of this Constitution under the Crown in India or after such commencement in connection with the affairs of the Union or of a State, are charged on the Consolidated Fund of India or the Consolidated Fund of a State, then, if—

(a) in the case of a charge on the Consolidated Fund of India, the court or Commission serves any of the separate needs of a State, or the person has served wholly or in part in connection with the affairs of a State; or

(b) in the case of a charge on the Consolidated Fund of a State, the court or Commission serves any of the separate needs of the Union or another State, or the person has served wholly or in part in connection with the affairs of the Union or another State,

there shall be charged on and paid out of the Consolidated Fund of the State or, as the case may be, the Consolidated Fund of India or the Consolidated Fund of the other State, such contribution in respect of the expenses or pension as may be agreed, or as may in default of agreement be determined by an arbitrator to be appointed by the Chief Justice of India.

[290A. Annual payment to certain Devaswom Funds.]—A sum of forty-six lakhs and fifty thousand rupees shall be charged on, and paid out of, the Consolidated Fund of the State of Kerala every year to the Travancore Devaswom Fund; and a sum of thirteen lakhs and fifty thousand rupees shall be charged on, and paid out of, the Consolidated Fund of the State of ²[Tamil Nadu] every year to the Devaswom Fund established in that State for the maintenance of Hindu temples and shrines in the territories transferred to that State on the 1st day of November, 1956, from the State of Travancore-Cochin.]

1. Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 19 (w.e.f. 1-11-1956).

2. Subs. by the Madras State (Alteration of Name) Act, 1968 (53 of 1968), s. 4, for "Madras" (w.e.f. 14-1-1969).

(Part XII.—Finance, Property, Contracts and Suits)

291. [Privy purse sums of Rulers].—Omitted by the Constitution (Twenty-sixth Amendment) Act, 1971, s. 2 (w.e.f. 28-12-1971).

CHAPTER II.—BORROWING

292. Borrowing by the Government of India.—The executive power of the Union extends to borrowing upon the security of the Consolidated Fund of India within such limits, if any, as may from time to time be fixed by Parliament by law and to the giving of guarantees within such limits, if any, as may be so fixed.

293. Borrowing by States.—(1) Subject to the provisions of this article, the executive power of a State extends to borrowing within the territory of India upon the security of the Consolidated Fund of the State within such limits, if any, as may from time to time be fixed by the Legislature of such State by law and to the giving of guarantees within such limits, if any, as may be so fixed.

(2) The Government of India may, subject to such conditions as may be laid down by or under any law made by Parliament, make loans to any State or, so long as any limits fixed under article 292 are not exceeded, give guarantees in respect of loans raised by any State, and any sums required for the purpose of making such loans shall be charged on the Consolidated Fund of India.

(3) A State may not without the consent of the Government of India raise any loan if there is still outstanding any part of a loan which has been made to the State by the Government of India or by its predecessor Government, or in respect of which a guarantee has been given by the Government of India or by its predecessor Government.

(4) A consent under clause (3) may be granted subject to such conditions, if any, as the Government of India may think fit to impose.

CHAPTER III.—PROPERTY, CONTRACTS, RIGHTS, LIABILITIES,

OBLIGATIONS AND SUITS

294. Succession to property, assets, rights, liabilities and obligations in certain cases.—As from the commencement of this Constitution—

(a) all property and assets which immediately before such commencement were vested in His Majesty for the purposes of the Government of the Dominion of India and all property and assets which immediately before such commencement were vested in His Majesty for the purposes of the Government of each Governor's Province shall vest respectively in the Union and the corresponding State; and

(Part XII.—Finance, Property, Contracts and Suits)

(b) all rights, liabilities and obligations of the Government of the Dominion of India and of the Government of each Governor's Province, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations respectively of the Government of India and the Government of each corresponding State,

subject to any adjustment made or to be made by reason of the creation before the commencement of this Constitution of the Dominion of Pakistan or of the Provinces of West Bengal, East Bengal, West Punjab and East Punjab.

295. Succession to property, assets, rights, liabilities and obligations in other cases.—(1) As from the commencement of this Constitution—

(a) all property and assets which immediately before such commencement were vested in any Indian State corresponding to a State specified in Part B of the First Schedule shall vest in the Union, if the purposes for which such property and assets were held immediately before such commencement will thereafter be purposes of the Union relating to any of the matters enumerated in the Union List, and

(b) all rights, liabilities and obligations of the Government of any Indian State corresponding to a State specified in Part B of the First Schedule, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations of the Government of India, if the purposes for which such rights were acquired or liabilities or obligations were incurred before such commencement will thereafter be purposes of the Government of India relating to any of the matters enumerated in the Union List,

subject to any agreement entered into in that behalf by the Government of India with the Government of that State.

(2) Subject as aforesaid, the Government of each State specified in Part B of the First Schedule shall, as from the commencement of this Constitution, be the successor of the Government of the corresponding Indian State as regards all property and assets and all rights, liabilities and obligations, whether arising out of any contract or otherwise, other than those referred to in clause (1).

296. Property accruing by escheat or lapse or as *bona vacantia*.—

Subject as hereinafter provided, any property in the territory of India which, if this Constitution had not come into operation, would have accrued to His Majesty or, as the case may be, to the Ruler of an Indian State by escheat or lapse, or as *bona vacantia* for want of a rightful owner, shall, if it is property situate in a State, vest in such State, and shall, in any other case, vest in the Union:

Provided that any property which at the date when it would have so accrued to His Majesty or to the Ruler of an Indian State was in the possession or under the control of the Government of India or the Government of a State shall, according as the purposes for which it was then used or held were purposes of the Union or of a State, vest in the Union or in that State.

Explanation.—In this article, the expressions “Ruler” and “Indian State” have the same meanings as in article 363.

¹[297. Things of value within territorial waters or continental shelf and resources of the exclusive economic zone to vest in the Union.]—(1) All lands, minerals and other things of value underlying the ocean within the territorial waters, or the continental shelf, or the exclusive economic zone, of India shall vest in the Union and be held for the purposes of the Union.

(2) All other resources of the exclusive economic zone of India shall also vest in the Union and be held for the purposes of the Union.

(3) The limits of the territorial waters, the continental shelf, the exclusive economic zone, and other maritime zones, of India shall be such as may be specified, from time to time, by or under any law made by Parliament.]

²[298. Power to carry on trade, etc.]—The executive power of the Union and of each State shall extend to the carrying on of any trade or business and to the acquisition, holding and disposal of property and the making of contracts for any purpose:

Provided that—

(a) the said executive power of the Union shall, in so far as such trade or business or such purpose is not one with respect to which Parliament may make laws, be subject in each State to legislation by the State; and

(b) the said executive power of each State shall, in so far as such trade or business or such purpose is not one with respect to which the State Legislature may make laws, be subject to legislation by Parliament.]

1. Subs. by the Constitution (Fortieth Amendment) Act, 1976, s. 2 (w.e.f. 27-5-1976).

2. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 20 (w.e.f. 1-11-1956).

(Part XII.—Finance, Property, Contracts and Suits)

299. Contracts.—(1) All contracts made in the exercise of the executive power of the Union or of a State shall be expressed to be made by the President, or by the Governor^{1***} of the State, as the case may be, and all such contracts and all assurances of property made in the exercise of that power shall be executed on behalf of the President or the Governor^{1***} by such persons and in such manner as he may direct or authorise.

(2) Neither the President nor the Governor^{2***} shall be personally liable in respect of any contract or assurance made or executed for the purposes of this Constitution, or for the purposes of any enactment relating to the Government of India heretofore in force, nor shall any person making or executing any such contract or assurance on behalf of any of them be personally liable in respect thereof.

300. Suits and proceedings.—(1) The Government of India may sue or be sued by the name of the Union of India and the Government of a State may sue or be sued by the name of the State and may, subject to any provisions which may be made by Act of Parliament or of the Legislature of such State enacted by virtue of powers conferred by this Constitution, sue or be sued in relation to their respective affairs in the like cases as the Dominion of India and the corresponding Provinces or the corresponding Indian States might have sued or been sued if this Constitution had not been enacted.

(2) If at the commencement of this Constitution—

(a) any legal proceedings are pending to which the Dominion of India is a party, the Union of India shall be deemed to be substituted for the Dominion in those proceedings; and

(b) any legal proceedings are pending to which a Province or an Indian State is a party, the corresponding State shall be deemed to be substituted for the Province or the Indian State in those proceedings.

³[CHAPTER IV.—RIGHT TO PROPERTY

300A. Persons not to be deprived of property save by authority of law.— No person shall be deprived of his property save by authority of law.]

1. The words "or the Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. The words "nor the Rajpramukh" omitted by s. 29 and Sch., *ibid.* (w.e.f. 1-11-1956).

3. Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 34 (w.e.f. 20-6-1979).

PART XIII

TRADE, COMMERCE AND INTERCOURSE WITHIN THE TERRITORY OF INDIA

301. Freedom of trade, commerce and intercourse.—Subject to the other provisions of this Part, trade, commerce and intercourse throughout the territory of India shall be free.

302. Power of Parliament to impose restrictions on trade, commerce and intercourse.—Parliament may by law impose such restrictions on the freedom of trade, commerce or intercourse between one State and another or within any part of the territory of India as may be required in the public interest.

303. Restrictions on the legislative powers of the Union and of the States with regard to trade and commerce.—(1) Notwithstanding anything in article 302, neither Parliament nor the Legislature of a State shall have power to make any law giving, or authorising the giving of, any preference to one State over another, or making, or authorising the making of, any discrimination between one State and another, by virtue of any entry relating to trade and commerce in any of the Lists in the Seventh Schedule.

(2) Nothing in clause (1) shall prevent Parliament from making any law giving, or authorising the giving of, any preference or making, or authorising the making of, any discrimination if it is declared by such law that it is necessary to do so for the purpose of dealing with a situation arising from scarcity of goods in any part of the territory of India.

304. Restrictions on trade, commerce and intercourse among States.—Notwithstanding anything in article 301 or article 303, the Legislature of a State may by law—

(a) impose on goods imported from other States¹ [or the Union territories] any tax to which similar goods manufactured or produced in that State are subject, so, however, as not to discriminate between goods so imported and goods so manufactured or produced; and

(b) impose such reasonable restrictions on the freedom of trade, commerce or intercourse with or within that State as may be required in the public interest:

1. Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

(Part XIII.—Trade, Commerce and Intercourse within the Territory of India)

Provided that no Bill or amendment for the purposes of clause (b) shall be introduced or moved in the Legislature of a State without the previous sanction of the President.

[305. Saving of existing laws and laws providing for State monopolies.]—Nothing in articles 301 and 303 shall affect the provisions of any existing law except in so far as the President may by order otherwise direct; and nothing in article 301 shall affect the operation of any law made before the commencement of the Constitution (Fourth Amendment) Act, 1955, in so far as it relates to, or prevent Parliament or the Legislature of a State from making any law relating to, any such matter as is referred to in sub-clause (ii) of clause (6) of article 19.]

306. [Power of certain States in Part B of the First Schedule to impose restrictions on trade and commerce.]—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.(w.e.f. 1-11-1956)

307. Appointment of authority for carrying out the purposes of articles 301 to 304.]—Parliament may by law appoint such authority as it considers appropriate for carrying out the purposes of articles 301, 302, 303 and 304, and confer on the authority so appointed such powers and such duties as it thinks necessary.

1. Subs. by the Constitution (Fourth Amendment) Act, 1955, s. 4, for art. 305 (w.e.f. 27-4-1955).

PART XIV

SERVICES UNDER THE UNION AND THE STATES

CHAPTER I.— SERVICES

308. Interpretation.—In this Part, unless the context otherwise requires, the expression “State”¹[does not include the State of Jammu and Kashmir].

309. Recruitment and conditions of service of persons serving the Union or a State.—Subject to the provisions of this Constitution, Acts of the appropriate Legislature may regulate the recruitment, and conditions of service of persons appointed, to public services and posts in connection with the affairs of the Union or of any State:

Provided that it shall be competent for the President or such person as he may direct in the case of services and posts in connection with the affairs of the Union, and for the Governor^{2***} of a State or such person as he may direct in the case of services and posts in connection with the affairs of the State, to make rules regulating the recruitment, and the conditions of service of persons appointed, to such services and posts until provision in that behalf is made by or under an Act of the appropriate Legislature under this article, and any rules so made shall have effect subject to the provisions of any such Act.

310. Tenure of office of persons serving the Union or a State.—(1) Except as expressly provided by this Constitution, every person who is a member of a defence service or of a civil service of the Union or of an all-India service or holds any post connected with defence or any civil post under the Union holds office during the pleasure of the President, and every person who is a member of a civil service of a State or holds any civil post under a State holds office during the pleasure of the Governor^{3***} of the State.

(2) Notwithstanding that a person holding a civil post under the Union or a State holds office during the pleasure of the President or, as the case may be, of the Governor^{2***} of the State, any contract under which a person, not being a member of a defence service or of an all-India service or of a civil service of the Union or a State, is appointed under this Constitution to hold such a post may, if the President or the Governor^{2***}, as the case may be, deems it

-
1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch., for "means a State specified in Part A or Part B of the First Schedule" (w.e.f. 1-11-1956).
 2. The words "or Rajpramukh" omitted by s.29 and Sch., *ibid* (w.e.f. 1-11-1956).
 3. The words "or, as the case may be, the Rajpramukh" omitted by s.29 and Sch., *ibid*. (w.e.f. 1-11-1956).

(Part XIV.—Services under the Union and the States)

necessary in order to secure the services of a person having special qualifications, provide for the payment to him of compensation, if before the expiration of an agreed period that post is abolished or he is, for reasons not connected with any misconduct on his part, required to vacate that post.

311. Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State.—(1) No person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.

¹[(2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges ^{2***}:

³[Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed:

Provided further that this clause shall not apply—]

(a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or

(b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or

(c) where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to hold such inquiry.

(3) If, in respect of any such person as aforesaid, a question arises whether it is reasonably practicable to hold such inquiry as is referred to in clause (2), the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank shall be final.]

1. Subs. by the Constitution (Fifteenth Amendment) Act, 1963, s. 10, for cl. (2) and (3) (w.e.f. 5-10-1963).

2. Certain words omitted by the Constitution (Forty-second Amendment) Act, 1976, s. 44 (w.e.f. 3-1-1977).

3. Subs. by s. 44, *ibid.*, for certain words (w.e.f. 3-1-1977).

(Part XIV.—Services under the Union and the States)

312. All-India services.—(1) Notwithstanding anything in ¹[Chapter VI of Part VI or Part XI], if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest so to do, Parliament may by law provide for the creation of one or more all India services ²[(including an all-India judicial service)] common to the Union and the States, and, subject to the other provisions of this Chapter, regulate the recruitment, and the conditions of service of persons appointed, to any such service.

(2) The services known at the commencement of this Constitution as the Indian Administrative Service and the Indian Police Service shall be deemed to be services created by Parliament under this article.

²[(3) The all-India judicial service referred to in clause (1) shall not include any post inferior to that of a district judge as defined in article 236.]

(4) The law providing for the creation of the all-India judicial service aforesaid may contain such provisions for the amendment of Chapter VI of Part VI as may be necessary for giving effect to the provisions of that law and no such law shall be deemed to be an amendment of this Constitution for the purposes of article 368.]

³[312A. Power of Parliament to vary or revoke conditions of service of officers of certain services.]—(1) Parliament may by law—

(a) vary or revoke, whether prospectively or retrospectively, the conditions of services as respects remuneration, leave and pension and the rights as respects disciplinary matters of persons who, having been appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India before the commencement of this Constitution, continue on and after the commencement of the Constitution (Twenty-eighth Amendment) Act, 1972, to serve under the Government of India or of a State in any service or post;

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 45, for "Part XI" (w.e.f. 3-1-1977).

2. Ins. by s. 45, *ibid.* (w.e.f. 3-1-1977).

3. Ins. by the Constitution (Twenty-eighth Amendment) Act, 1972, s. 2 (w.e.f. 29-8-1972).

(Part XIV.—Services under the Union and the States)

(b) vary or revoke, whether prospectively or retrospectively, the conditions of service as respects pension of persons who, having been appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India before the commencement of this Constitution, retired or otherwise ceased to be in service at any time before the commencement of the Constitution (Twenty-eighth Amendment) Act, 1972:

Provided that in the case of any such person who is holding or has held the office of the Chief Justice or other Judge of the Supreme Court or a High Court, the Comptroller and Auditor-General of India, the Chairman or other member of the Union or a State Public Service Commission or the Chief Election Commissioner, nothing in sub-clause (a) or sub-clause (b) shall be construed as empowering Parliament to vary or revoke, after his appointment to such post, the conditions of his service to his disadvantage except in so far as such conditions of service are applicable to him by reason of his being a person appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India.

(2) Except to the extent provided for by Parliament by law under this article, nothing in this article shall affect the power of any Legislature or other authority under any other provision of this Constitution to regulate the conditions of service of persons referred to in clause (1).

(3) Neither the Supreme Court nor any other court shall have jurisdiction in—

(a) any dispute arising out of any provision of, or any endorsement on, any covenant, agreement or other similar instrument which was entered into or executed by any person referred to in clause (1), or arising out of any letter issued to such person, in relation to his appointment to any civil service of the Crown in India or his continuance in service under the Government of the Dominion of India or a Province thereof;

(b) any dispute in respect of any right, liability or obligation under article 314 as originally enacted.

(4) The provisions of this article shall have effect notwithstanding anything in article 314 as originally enacted or in any other provision of this Constitution.]

(Part XIV.—Services under the Union and the States)

313. Transitional provisions.—Until other provision is made in this behalf under this Constitution, all the laws in force immediately before the commencement of this Constitution and applicable to any public service or any post which continues to exist after the commencement of this Constitution, as an all-India service or as service or post under the Union or a State shall continue in force so far as consistent with the provisions of this Constitution.

314. [Provision for protection of existing officers of certain services].—Omitted by the Constitution (Twenty-eighth Amendment) Act, 1972, s. 3 (w.e.f. 29-8-1972).

CHAPTER II.—PUBLIC SERVICE COMMISSIONS

315. Public Service Commissions for the Union and for the States.—

(1) Subject to the provisions of this article, there shall be a Public Service Commission for the Union and a Public Service Commission for each State.

(2) Two or more States may agree that there shall be one Public Service Commission for that group of States, and if a resolution to that effect is passed by the House or, where there are two Houses, by each House of the Legislature of each of those States, Parliament may by law provide for the appointment of a Joint State Public Service Commission (referred to in this Chapter as Joint Commission) to serve the needs of those States.

(3) Any such law as aforesaid may contain such incidental and consequential provisions as may be necessary or desirable for giving effect to the purposes of the law.

(4) The Public Service Commission for the Union, if requested so to do by the Governor^{1***} of a State, may, with the approval of the President, agree to serve all or any of the needs of the State.

(5) References in this Constitution to the Union Public Service Commission or a State Public Service Commission shall, unless the context otherwise requires, be construed as references to the Commission serving the needs of the Union or, as the case may be, the State as respects the particular matter in question.

316. Appointment and term of office of members.—(1) The Chairman and other members of a Public Service Commission shall be appointed, in the case of the Union Commission or a Joint Commission, by the President, and in the case of a State Commission, by the Governor of the State:

1. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

(Part XIV.—Services under the Union and the States)

Provided that as nearly as may be one-half of the members of every Public Service Commission shall be persons who at the dates of their respective appointments have held office for at least ten years either under the Government of India or under the Government of a State, and in computing the said period of ten years any period before the commencement of this Constitution during which a person has held office under the Crown in India or under the Government of an Indian State shall be included.

¹[(1A) If the office of the Chairman of the Commission becomes vacant or if any such Chairman is by reason of absence or for any other reason unable to perform the duties of his office, those duties shall, until some person appointed under clause (1) to the vacant office has entered on the duties thereof or, as the case may be, until the Chairman has resumed his duties, be performed by such one of the other members of the Commission as the President, in the case of the Union Commission or a Joint Commission, and the Governor of the State in the case of a State Commission, may appoint for the purpose.]

(2) A member of a Public Service Commission shall hold office for a term of six years from the date on which he enters upon his office or until he attains, in the case of the Union Commission, the age of sixty-five years, and in the case of a State Commission or a Joint Commission, the age of ²[sixty-two years], whichever is earlier:

Provided that—

(a) a member of a Public Service Commission may, by writing under his hand addressed, in the case of the Union Commission or a Joint Commission, to the President, and in the case of a State Commission, to the Governor ^{3****} of the State, resign his office;

(b) a member of a Public Service Commission may be removed from his office in the manner provided in clause (1) or clause (3) of article 317.

(3) A person who holds office as a member of a Public Service Commission shall, on the expiration of his term of office, be ineligible for re-appointment to that office.

-
1. Ins. by the Constitution (Fifteenth Amendment) Act, 1963, s. 11 (w.e.f. 5-10-1963).
 2. Subs. by the Constitution (Forty-first Amendment) Act, 1976, s. 2, for "sixty years" (w.e.f. 7-9-1976).
 3. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

(Part XIV.—Services under the Union and the States)

317. Removal and suspension of a member of a Public Service Commission.—(1) Subject to the provisions of clause (3), the Chairman or any other member of a Public Service Commission shall only be removed from his office by order of the President on the ground of misbehaviour after the Supreme Court, on reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf under article 145, reported that the Chairman or such other member, as the case may be, ought on any such ground to be removed.

(2) The President, in the case of the Union Commission or a Joint Commission, and the Governor ^{1***} in the case of a State Commission, may suspend from office the Chairman or any other member of the Commission in respect of whom a reference has been made to the Supreme Court under clause (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything in clause (1), the President may by order remove from office the Chairman or any other member of a Public Service Commission if the Chairman or such other member, as the case may be,—

(a) is adjudged an insolvent; or

(b) engages during his term of office in any paid employment outside the duties of his office; or

(c) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body.

(4) If the Chairman or any other member of a Public Service Commission is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Government of India or the Government of a State or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of clause (1), be deemed to be guilty of misbehaviour.

318. Power to make regulations as to conditions of service of members and staff of the Commission.—In the case of the Union Commission or a Joint Commission, the President and, in the case of a State Commission, the Governor ^{1***} of the State may by regulations—

1. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

(Part XIV.—Services under the Union and the States)

(a) determine the number of members of the Commission and their conditions of service; and

(b) make provision with respect to the number of members of the staff of the Commission and their conditions of service:

Provided that the conditions of service of a member of a Public Service Commission shall not be varied to his disadvantage after his appointment.

319. Prohibition as to the holding of offices by members of Commission on ceasing to be such members.—On ceasing to hold office—

(a) the Chairman of the Union Public Service Commission shall be ineligible for further employment either under the Government of India or under the Government of a State;

(b) the Chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member of the Union Public Service Commission or as the Chairman of any other State Public Service Commission, but not for any other employment either under the Government of India or under the Government of a State;

(c) a member other than the Chairman of the Union Public Service Commission shall be eligible for appointment as the Chairman of the Union Public Service Commission or as the Chairman of a State Public Service Commission, but not for any other employment either under the Government of India or under the Government of a State;

(d) a member other than the Chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member of the Union Public Service Commission or as the Chairman of that or any other State Public Service Commission, but not for any other employment either under the Government of India or under the Government of a State.

320. Functions of Public Service Commissions.—(1) It shall be the duty of the Union and the State Public Service Commissions to conduct examinations for appointments to the services of the Union and the services of the State respectively.

(2) It shall also be the duty of the Union Public Service Commission, if requested by any two or more States so to do, to assist those States in framing and operating schemes of joint recruitment for any services for which candidates possessing special qualifications are required.

(3) The Union Public Service Commission or the State Public Service Commission, as the case may be, shall be consulted—

THE CONSTITUTION OF INDIA

(Part XIV.—Services under the Union and the States)

(a) on all matters relating to methods of recruitment to civil services and for civil posts;

(b) on the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers;

(c) on all disciplinary matters affecting a person serving under the Government of India or the Government of a State in a civil capacity, including memorials or petitions relating to such matters;

(d) on any claim by or in respect of a person who is serving or has served under the Government of India or the Government of a State or under the Crown in India or under the Government of an Indian State, in a civil capacity, that any costs incurred by him in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty should be paid out of the Consolidated Fund of India, or, as the case may be, out of the Consolidated Fund of the State;

(e) on any claim for the award of a pension in respect of injuries sustained by a person while serving under the Government of India or the Government of a State or under the Crown in India or under the Government of an Indian State, in a civil capacity, and any question as to the amount of any such award,

and it shall be the duty of a Public Service Commission to advise on any matter so referred to them and on any other matter which the President, or, as the case may be, the Governor^{1***} of the State, may refer to them:

Provided that the President as respects the all-India services and also as respects other services and posts in connection with the affairs of the Union, and the Governor^{2***}, as respects other services and posts in connection with the affairs of a State, may make regulations specifying the matters in which either generally, or in any particular class of case or in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted.

(4) Nothing in clause (3) shall require a Public Service Commission to be consulted as respects the manner in which any provision referred to in clause (4) of article 16 may be made or as respects the manner in which effect may be given to the provisions of article 335.

1. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. The words "or Rajpramukh, as the case may be" omitted by s. 29 and Sch. *ibid.* (w.e.f. 1-11-1956).

(Part XIV.—Services under the Union and the States)

(5) All regulations made under the proviso to clause (3) by the President or the Governor ^{1***} of a State shall be laid for not less than fourteen days before each House of Parliament or the House or each House of the Legislature of the State, as the case may be, as soon as possible after they are made, and shall be subject to such modifications, whether by way of repeal or amendment, as both Houses of Parliament or the House or both Houses of the Legislature of the State may make during the session in which they are so laid.

321. Power to extend functions of Public Service Commissions.—An Act made by Parliament or, as the case may be, the Legislature of a State may provide for the exercise of additional functions by the Union Public Service Commission or the State Public Service Commission as respects the services of the Union or the State and also as respects the services of any local authority or other body corporate constituted by law or of any public institution.

322. Expenses of Public Service Commissions.—The expenses of the Union or a State Public Service Commission, including any salaries, allowances and pensions payable to or in respect of the members or staff of the Commission, shall be charged on the Consolidated Fund of India or, as the case may be, the Consolidated Fund of the State.

323. Reports of Public Service Commissions.—(1) It shall be the duty of the Union Commission to present annually to the President a report as to the work done by the Commission and on receipt of such report the President shall cause a copy thereof together with a memorandum explaining, as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance to be laid before each House of Parliament.

(2) It shall be the duty of a State Commission to present annually to the Governor ^{1***} of the State a report as to the work done by the Commission, and it shall be the duty of a Joint Commission to present annually to the Governor ^{1***} of each of the States the needs of which are served by the Joint Commission a report as to the work done by the Commission in relation to that State, and in either case the Governor ^{2***}, shall, on receipt of such report, cause a copy thereof together with a memorandum explaining, as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance to be laid before the Legislature of the State.

1. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. The words "or Rajpramukh, as the case may be" omitted by s. 29 and Sch. *ibid.* (w.e.f. 1-11-1956).

¹[PART XIVA
TRIBUNALS

323A. Administrative tribunals.—(1) Parliament may, by law, provide for the adjudication or trial by administrative tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government.

(2) A law made under clause (1) may—

(a) provide for the establishment of an administrative tribunal for the Union and a separate administrative tribunal for each State or for two or more States;

(b) specify the jurisdiction, powers (including the power to punish for contempt) and authority which may be exercised by each of the said tribunals;

(c) provide for the procedure (including provisions as to limitation and rules of evidence) to be followed by the said tribunals;

(d) exclude the jurisdiction of all courts, except the jurisdiction of the Supreme Court under article 136, with respect to the disputes or complaints referred to in clause (1);

(e) provide for the transfer to each such administrative tribunal of any cases pending before any court or other authority immediately before the establishment of such tribunal as would have been within the jurisdiction of such tribunal if the causes of action on which such suits or proceedings are based had arisen after such establishment;

(f) repeal or amend any order made by the President under clause (3) of article 371D;

(g) contain such supplemental, incidental and consequential provisions (including provisions as to fees) as Parliament may deem necessary for the effective functioning of, and for the speedy disposal of cases by, and the enforcement of the orders of, such tribunals.

1. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 46 (w.e.f. 3-1-1977).

(3) The provisions of this article shall have effect notwithstanding anything in any other provision of this Constitution or in any other law for the time being in force.

323B. Tribunals for other matters.—(1) The appropriate Legislature may, by law, provide for the adjudication or trial by tribunals of any disputes, complaints, or offences with respect to all or any of the matters specified in clause (2) with respect to which such Legislature has power to make laws.

(2) The matters referred to in clause (1) are the following, namely:—

(a) levy, assessment, collection and enforcement of any tax;

(b) foreign exchange, import and export across customs frontiers;

(c) industrial and labour disputes;

(d) land reforms by way of acquisition by the State of any estate as defined in article 31A or of any rights therein or the extinguishment or modification of any such rights or by way of ceiling on agricultural land or in any other way;

(e) ceiling on urban property;

(f) elections to either House of Parliament or the House or either House of the Legislature of a State, but excluding the matters referred to in article 329 and article 329A;

(g) production, procurement, supply and distribution of food-stuffs (including edible oilseeds and oils) and such other goods as the President may, by public notification, declare to be essential goods for the purpose of this article and control of prices of such goods;

¹[(h) rent, its regulation and control and tenancy issues including the right, title and interest of landlords and tenants;]

²[(i)] offences against laws with respect to any of the matters specified in sub-clauses (a) to ³[(h)] and fees in respect of any of those matters;

1. Ins. by the Constitution (Seventy-fifth Amendment) Act, 1993, s. 2 (w.e.f. 15-5-1994).

2. Sub-clause (h) re-lettered as sub-clause (i) by s. 2, *ibid.* (w.e.f. 15-5-1994).

3. Subs. by s. 2, *ibid.*, for the brackets and letter "(g)" (w.e.f. 15-5-1994).

¹[(j)] any matter incidental to any of the matters specified in sub-clauses (a) to ²[(i)].

(3) A law made under clause (1) may—

(a) provide for the establishment of a hierarchy of tribunals;

(b) specify the jurisdiction, powers (including the power to punish for contempt) and authority which may be exercised by each of the said tribunals;

(c) provide for the procedure (including provisions as to limitation and rules of evidence) to be followed by the said tribunals;

(d) exclude the jurisdiction of all courts, except the jurisdiction of the Supreme Court under article 136, with respect to all or any of the matters falling within the jurisdiction of the said tribunals;

(e) provide for the transfer to each such tribunal of any cases pending before any court or any other authority immediately before the establishment of such tribunal as would have been within the jurisdiction of such tribunal if the causes of action on which such suits or proceedings are based had arisen after such establishment;

(f) contain such supplemental, incidental and consequential provisions (including provisions as to fees) as the appropriate Legislature may deem necessary for the effective functioning of, and for the speedy disposal of cases by, and the enforcement of the orders of, such tribunals.

(4) The provisions of this article shall have effect notwithstanding anything in any other provision of this Constitution or in any other law for the time being in force.

Explanation.—In this article, “appropriate Legislature”, in relation to any matter, means Parliament or, as the case may be, a State Legislature competent to make laws with respect to such matter in accordance with the provisions of Part XI.]

1. Sub-clause (i) re-lettered as sub-clause (j) by the Constitution (Seventy-fifth Amendment) Act, 1993, s. 2 (w.e.f. 15-5-1994).

2. Subs. by s. 2, *ibid.*, for “(h)” (w.e.f. 15-5-1994).

PART XV

ELECTIONS

324. Superintendence, direction and control of elections to be vested in an Election Commission.—(1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President held under this Constitution ^{1***} shall be vested in a Commission (referred to in this Constitution as the Election Commission).

(2) The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time fix and the appointment of the Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law made in that behalf by Parliament, be made by the President.

(3) When any other Election Commissioner is so appointed the Chief Election Commissioner shall act as the Chairman of the Election Commission.

(4) Before each general election to the House of the People and to the Legislative Assembly of each State, and before the first general election and thereafter before each biennial election to the Legislative Council of each State having such Council, the President may also appoint after consultation with the Election Commission such Regional Commissioners as he may consider necessary to assist the Election Commission in the performance of the functions conferred on the Commission by clause (1).

(5) Subject to the provisions of any law made by Parliament, the conditions of service and tenure of office of the Election Commissioners and the Regional Commissioners shall be such as the President may by rule determine:

Provided that the Chief Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court and the conditions of service of the Chief Election Commissioner shall not be varied to his disadvantage after his appointment:

1. The words "including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with elections to Parliament and to the Legislatures of States" omitted by the Constitution (Nineteenth Amendment) Act, 1966, s. 2 (w.e.f. 11-12-1966).

Provided further that any other Election Commissioner or a Regional Commissioner shall not be removed from office except on the recommendation of the Chief Election Commissioner.

(6) The President, or the Governor ^{1***} of a State, shall, when so requested by the Election Commission, make available to the Election Commission or to a Regional Commissioner such staff as may be necessary for the discharge of the functions conferred on the Election Commission by clause (1).

325. No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex.—There shall be one general electoral roll for every territorial constituency for election to either House of Parliament or to the House or either House of the Legislature of a State and no person shall be ineligible for inclusion in any such roll or claim to be included in any special electoral roll for any such constituency on grounds only of religion, race, caste, sex or any of them.

326. Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of adult suffrage.—The elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult suffrage; that is to say, every person who is a citizen of India and who is not less than ²[eighteen years] of age on such date as may be fixed in that behalf by or under any law made by the appropriate Legislature and is not otherwise disqualified under this Constitution or any law made by the appropriate Legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice, shall be entitled to be registered as a voter at any such election.

327. Power of Parliament to make provision with respect to elections to Legislatures.—Subject to the provisions of this Constitution, Parliament may from time to time by law make provision with respect to all matters relating to, or in connection with, elections to either House of Parliament or to the House or either House of the Legislature of a State including the preparation of electoral rolls, the delimitation of constituencies and all other matters necessary for securing the due constitution of such House or Houses.

-
1. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).
 2. Subs. by the Constitution (Sixty-first Amendment) Act, 1988, s. 2, for "twenty-one years" (w.e.f. 28-3-1989).

328. Power of Legislature of a State to make provision with respect to elections to such Legislature.—Subject to the provisions of this Constitution and in so far as provision in that behalf is not made by Parliament, the Legislature of a State may from time to time by law make provision with respect to all matters relating to, or in connection with, the elections to the House or either House of the Legislature of the State including the preparation of electoral rolls and all other matters necessary for securing the due constitution of such House or Houses.

329. Bar to interference by courts in electoral matters.—
¹[Notwithstanding anything in this Constitution ^{2***}]—

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 327 or article 328, shall not be called in question in any court;

(b) no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature.

³329A. [Special provision as to elections to Parliament in the case of Prime Minister and Speaker.]—Omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 36 (w.e.f. 20-6-1979).

-
1. Subs. by the Constitution (Thirty-ninth Amendment) Act, 1975, s. 3, for certain words (w.e.f. 10-8-1975).
 2. The words, figures and letter "but subject to the provisions of article 329A" omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 35 (w.e.f. 20-6-1979).
 3. Ins. by the Constitution (Thirty-ninth Amendment) Act, 1975, s. 4 (w.e.f. 10-8-1975).

PART XVI

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES

330. Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People.—(1) Seats shall be reserved in the House of the People for—

(a) the Scheduled Castes;

¹[(b) the Scheduled Tribes except the Scheduled Tribes in the autonomous districts of Assam; and]

(c) the Scheduled Tribes in the autonomous districts of Assam.

(2) The number of seats reserved in any State ²[or Union territory] for the Scheduled Castes or the Scheduled Tribes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State ²[or Union territory] in the House of the People as the population of the Scheduled Castes in the State ²[or Union territory] or of the Scheduled Tribes in the State ²[or Union territory] or part of the State ²[or Union territory], as the case may be, in respect of which seats are so reserved, bears to the total population of the State ²[or Union territory].

³[(3) Notwithstanding anything contained in clause (2), the number of seats reserved in the House of the People for the Scheduled Tribes in the autonomous districts of Assam shall bear to the total number of seats allotted to that State a proportion not less than the population of the Scheduled Tribes in the said autonomous districts bears to the total population of the State.]

⁴[*Explanation*.—In this article and in article 332, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published:

Provided that the reference in this *Explanation* to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year ⁵[2026] have been published, be construed as a reference to the ⁶[2001] census.]

1. Subs. By the Constitution (Fifty-first Amendment) Act, 1984, s. 2, for sub-clause (b) (w.e.f. 16-6-1986).

2. Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

3. Ins. by the Constitution (Thirty-first Amendment) Act, 1973, s. 3 (w.e.f. 17-10-1973).

4. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 47 (w.e.f. 3-1-1977).

5. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 6, for “2000” (w.e.f. 21-2-2002).

6. Subs. by the Constitution (Eighty-seventh Amendment) Act, 2003, s. 5, for “1991” (w.e.f. 22-6-2003).

(Part XVI.—Special Provisions Relating to Certain Classes)

¹[330A. Reservation of seats for women in the House of the People.-

- (1) Seats shall be reserved for women in the House of the People.
- (2) As nearly as may be, one-third of the total number of seats reserved under clause (2) of article 330 shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes.
- (3) As nearly as may be, one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election to the House of the People shall be reserved for women.]

331. Representation of the Anglo-Indian Community in the House of the People.—Notwithstanding anything in article 81, the President may, if he is of opinion that the Anglo-Indian community is not adequately represented in the House of the People, nominate not more than two members of that community to the House of the People.

332. Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States.—(1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes,²[except the Scheduled Tribes in the autonomous districts of Assam], in the Legislative Assembly of every State^{3***}.

(2) Seats shall be reserved also for the autonomous districts in the Legislative Assembly of the State of Assam.

(3) The number of seats reserved for the Scheduled Castes or the Scheduled Tribes in the Legislative Assembly of any State under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State or part of the State, as the case may be, in respect of which seats are so reserved, bears to the total population of the State.

⁴[(3A) Notwithstanding anything contained in clause (3), until the taking effect, under article 170, of the re-adjustment, on the basis of the first census after the year⁵[2026], of the number of seats in the Legislative Assemblies of the States of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland, the seats which shall be reserved for the Scheduled Tribes in the Legislative Assembly of any such State shall be,—

-
- 1. Ins. by the Constitution (One Hundred and Sixth Amendment) Act, 2023, s.3 (date yet to be notified).
 - 2. Subs. by the Constitution (Fifty-first Amendment) Act, 1984, s. 3, for certain words (w.e.f. 16-6-1986).
 - 3. The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).
 - 4. Ins. by the Constitution (Fifty-seventh Amendment) Act, 1987, s. 2 (w.e.f. 21-9-1987).
 - 5. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 7, for "2000" (w.e.f. 21-2-2002).

THE CONSTITUTION OF INDIA

(Part XVI.—Special Provisions Relating to Certain Classes)

(a) if all the seats in the Legislative Assembly of such State in existence on the date of coming into force of the Constitution (Fifty-seventh Amendment) Act, 1987 (hereafter in this clause referred to as the existing Assembly) are held by members of the Scheduled Tribes, all the seats except one;

(b) in any other case, such number of seats as bears to the total number of seats, a proportion not less than the number (as on the said date) of members belonging to the Scheduled Tribes in the existing Assembly bears to the total number of seats in the existing Assembly.]

¹[(3B) Notwithstanding anything contained in clause (3), until the re-adjustment, under article 170, takes effect on the basis of the first census after the year ²[2026], of the number of seats in the Legislative Assembly of the State of Tripura, the seats which shall be reserved for the Scheduled Tribes in the Legislative Assembly shall be, such number of seats as bears to the total number of seats, a proportion not less than the number, as on the date of coming into force of the Constitution (Seventy-second Amendment) Act, 1992, of members belonging to the Scheduled Tribes in the Legislative Assembly in existence on the said date bears to the total number of seats in that Assembly.]

(4) The number of seats reserved for an autonomous district in the Legislative Assembly of the State of Assam shall bear to the total number of seats in that Assembly a proportion not less than the population of the district bears to the total population of the State.

(5) The constituencies for the seats reserved for any autonomous district of Assam shall not comprise any area outside that district ^{3***}.

(6) No person who is not a member of a Scheduled Tribe of any autonomous district of the State of Assam shall be eligible for election to the Legislative Assembly of the State from any constituency of that district ^{3***}:

⁴[Provided that for elections to the Legislative Assembly of the State of

1. Ins. by the Constitution (Seventy-second Amendment) Act, 1992, s. 2 (w.e.f. 5-12-1992).
2. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 7, for "2000" (w.e.f. 21-2-2002).
3. Certain words omitted by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71 (w.e.f. 21-1-1972).
4. Ins. by the Constitution (Ninetieth Amendment) Act, 2003, s. 2 (w.e.f. 28-9-2003).

(Part XVI.—Special Provisions Relating to Certain Classes)

Assam, the representation of the Scheduled Tribes and non-Scheduled Tribes in the constituencies included in the Bodoland Territorial Areas District, so notified, and existing prior to the constitution of Bodoland Territorial Areas District, shall be maintained.]

¹[**332A. Reservation of seats for women in the Legislative Assemblies of the States.**]—(1) Seats shall be reserved for women in the Legislative Assembly of every State.

(2) As nearly as may be, one-third of the total number of seats reserved under clause (3) of article 332 shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes.

(3) As nearly as may be, one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Sceduled Tribes) of the total number of seats to be filled by direct election in the Legislative Assembly of every State shall be reserved for women.]

333. Representation of the Anglo-Indian community in the Legislative Assemblies of the States.—Notwithstanding anything in article 170, the Governor ^{2***} of a State may, if he is of opinion that the Anglo-Indian community needs representation in the Legislative Assembly of the State and is not adequately represented therein, ³[nominate one member of that community to the Assembly].

334. ⁴[Reservation of seats and special representation to cease after certain period].—Notwithstanding anything in the foregoing provisions of this Part, the provisions of this Constitution relating to—

(a) the reservation of seats for the Scheduled Castes and the Scheduled Tribes in the House of the People and in the Legislative Assemblies of the States; and

(b) the representation of the Anglo-Indian community in the House of the People and in the Legislative Assemblies of the States by nomination,

-
1. Ins. by the Constitution (One Hundred and Sixth Amendment) Act, 2023, s.4 (date yet to be notified).
 2. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).
 3. Subs. by the Constitution (Twenty-third Amendment) Act, 1969, s. 4, for "nominate such number of members of the community to the Assembly as he considers appropriate" (w.e.f. 23-1-1970).
 4. Subs. by the Constitution (One hundred and fourth Amendment) Act, 2019, s. 2, for marginal heading (w.e.f. 25-1-2020).

(Part XVI.—Special Provisions Relating to Certain Classes)

shall cease to have effect on the expiration of a period of ¹[eighty years in respect of clause (a) and seventy years in respect of clause (b)] from the commencement of this Constitution:

Provided that nothing in this article shall affect any representation in the House of the People or in the Legislative Assembly of a State until the dissolution of the then existing House or Assembly, as the case may be.

²334A. Reservation of seats for women take effect. — (1) Notwithstanding anything in the foregoing provision of this Part or Part VIII, the provisions of the Constitution relating to the reservation of seats for women in the House of the People, the Legislative Assembly of a State and the Legislative Assembly of the National Capital Territory of Delhi shall come into effect after an exercise of delimitation is undertaken for this purpose after the relevant figures for the first census taken after commencement of the Constitution (One Hundred and Sixth Amendment) Act, 2023 have been published and shall cease to have effect on the expiration of a period of fifteen years from such commencement.

(2) Subject to the provisions of articles 239AA, 330A and 332A, seats reserved for women in the House of the People, the Legislative Assembly of a State and the Legislative Assembly of the National Capital Territory of Delhi shall continue till such date as the Parliament may by law determine.

(3) Rotation of seats reserved for women in the House of the People, the Legislative Assembly of a State and the Legislative Assembly of the National Capital Territory of Delhi shall take effect after each subsequent exercise of delimitation as the Parliament may by law determine.

(4) Nothing in this article shall affect any representation in the House of the People, the Legislative Assembly of a State or the Legislative Assembly of the National Capital Territory of Delhi until the dissolution of the then existing House of the People, Legislative Assembly of a State or the Legislative Assembly of the National Capital Territory of Delhi.]

335. Claims of Scheduled Castes and Scheduled Tribes to services and posts. — The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State:

1. Subs. by the Constitution (One Hundred and Fourth Amendment) Act, 2019, s. 2, for “seventy years” (w.e.f. 25-1-2020). The words “seventy years” subs. for “sixty years” by the Constitution (Ninety-fifth Amendment) Act, 2009, s.2 (w.e.f. 25-1-2010). The words “sixty years” subs. for “fifty years” by the Constitution (Seventy-ninth Amendment) Act, 1999, s. 2 (w.e.f. 25-1-2000). The words “fifty years” subs. for “forty years” by the Constitution (Sixty-second Amendment) Act, 1989, s. 2 (w.e.f. 20-12-1989). The words “forty years” subs. for “thirty years” by the Constitution (Forty-fifth Amendment) Act, 1980, s. 2 (w.e.f. 25-1-1980).
2. Ins. by the Constitution (One Hundred and Sixth Amendment) Act, 2023, s.5 (date yet to be notified).

(Part XVI.—Special Provisions Relating to Certain Classes)

¹[Provided that nothing in this article shall prevent in making of any provision in favour of the members of the Scheduled Castes and the Scheduled Tribes for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters or promotion to any class or classes of services or posts in connection with the affairs of the Union or of a State.]

336. Special provision for Anglo-Indian community in certain services.—(1) During the first two years after the commencement of this Constitution, appointments of members of the Anglo-Indian community to posts in the railway, customs, postal and telegraph services of the Union shall be made on the same basis as immediately before the fifteenth day of August, 1947.

During every succeeding period of two years, the number of posts reserved for the members of the said community in the said services shall, as nearly as possible, be less by ten per cent. than the numbers so reserved during the immediately preceding period of two years:

Provided that at the end of ten years from the commencement of this Constitution all such reservations shall cease.

(2) Nothing in clause (1) shall bar the appointment of members of the Anglo-Indian community to posts other than, or in addition to, those reserved for the community under that clause if such members are found qualified for appointment on merit as compared with the members of other communities.

337. Special provision with respect to educational grants for the benefit of Anglo-Indian community.—During the first three financial years after the commencement of this Constitution, the same grants, if any, shall be made by the Union and by each State ^{2***} for the benefit of the Anglo-Indian community in respect of education as were made in the financial year ending on the thirty-first day of March, 1948.

During every succeeding period of three years the grants may be less by ten per cent. than those for the immediately preceding period of three years:

Provided that at the end of ten years from the commencement of this Constitution such grants, to the extent to which they are a special concession to the Anglo-Indian community, shall cease:

Provided further that no educational institution shall be entitled to receive any grant under this article unless at least forty per cent. of the annual admissions therein are made available to members of communities other than the Anglo-Indian community.

1. Ins. by the Constitution (Eighty-second Amendment) Act, 2000, s. 2 (w.e.f. 8-9-2000).

2. The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

(Part XVI.—Special Provisions Relating to Certain Classes)

338. ¹[**National Commission for Scheduled Castes**.—²[³[(1) There shall be a Commission for the Scheduled Castes to be known as the National Commission for the Scheduled Castes.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.]

(3) The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.

(4) The Commission shall have the power to regulate its own procedure.

(5) It shall be the duty of the Commission—

(a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes ^{4***} under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;

(b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes ^{4***};

(c) to participate and advise on the planning process of socio-economic development of the Scheduled Castes ^{1***} and to evaluate the progress of their development under the Union and any State;

(d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

(e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of

1. Subs. by the Constitution (Eighty-ninth Amendment) Act, 2003, s. 2, for the marginal heading (w.e.f. 19-2-2004).
2. Subs. by the Constitution (Sixty-fifth Amendment) Act, 1990, s. 2, for cl. (1) and (2) (w.e.f. 12-3-1992).
3. Subs. by the Constitution (Eighty-ninth Amendment) Act, 2003, s. 2, for cl. (1) and (2) (w.e.f. 19-2-2004).
4. The words "and Scheduled Tribes" omitted by the Constitution (Eighty-ninth Amendment) Act, 2003, s. 2 (w.e.f. 19-2-2004).

(Part XVI.—Special Provisions Relating to Certain Classes)

those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes ^{1***}, and

(f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes ^{1***} as the President may, subject to the provisions of any law made by Parliament, by rule specify.

(6) The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(7) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

(8) The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses and documents;
- (f) any other matter which the President may, by rule, determine.

(9) The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Castes ^{1***}.

²[(10)] In this article, references to the Scheduled Castes ^{1***} shall be construed as including references ^{3***} to the Anglo-Indian community.

⁴[338A. **National Commission for Scheduled Tribes.**—(1) There shall be a Commission for the Scheduled Tribes to be known as the National Commission for the Scheduled Tribes.

-
1. The words "and Scheduled Tribes" omitted by the Constitution (Eighty-ninth Amendment) Act, 2003, s. 2 (w.e.f. 19-2-2004).
 2. Cl. (3) renumbered as cl. (10) by the Constitution (Sixty-fifth Amendment) Act, 1990, s. 2 (w.e.f. 12-3-1992).
 3. The words, brackets and figures "to such other backward classes as the President may, on receipt of the report of a Commission appointed under cl. (1) of article 340, by order specify and also" omitted by the Constitution (One Hundred and Second Amendment) Act, 2018, s. 2 (w.e.f. 15-8-2018).
 4. Art 338A ins. by the Constitution (Eighty-ninth Amendment) Act, 2003, s. 3 (w.e.f. 19-2-2004).

THE CONSTITUTION OF INDIA

(Part XVI.—Special Provisions Relating to Certain Classes)

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.

(3) The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.

(4) The Commission shall have the power to regulate its own procedure.

(5) It shall be the duty of the Commission—

(a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Tribes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;

(b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Tribes;

(c) to participate and advise on the planning process of socio-economic development of the Scheduled Tribes and to evaluate the progress of their development under the Union and any State;

(d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

(e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Tribes; and

(f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes as the President may, subject to the provisions of any law made by Parliament, by rule specify.

(6) The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any such recommendations.

(7) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

(Part XVI.—Special Provisions Relating to Certain Classes)

(8) The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses and documents;
- (f) any other matter which the President may, by rule, determine.

(9) The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Tribes.]

¹[338B. **National Commission for Backward Classes.**—(1) There shall be a Commission for the socially and educationally backward classes to be known as the National Commission for Backward Classes.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.

(3) The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.

- (4) The Commission shall have the power to regulate its own procedure.
- (5) It shall be the duty of the Commission—

(a) to investigate and monitor all matters relating to the safeguards provided for the socially and educationally backward classes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;

(b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the socially and educationally backward classes;

(c) to participate and advise on the socio-economic development of the socially and educationally backward classes and to evaluate the progress of their development under the Union and any State;

1.Art 338B ins. by the Constitution (One Hundred and Second Amendment) Act, 2018, s. 3 (w.e.f. 15-8-2018).

THE CONSTITUTION OF INDIA

(Part XVI.—Special Provisions Relating to Certain Classes)

(d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

(e) to make in such reports the recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the socially and educationally backward classes; and

(f) to discharge such other functions in relation to the protection, welfare and development and advancement of the socially and educationally backward classes as the President may, subject to the provisions of any law made by Parliament, by rule specify.

(6) The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any such recommendations.

(7) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the State Government which shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

(8) The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses and documents;
- (f) any other matter which the President may by rule, determine.

(9) The Union and every State Government shall consult the Commission on all major policy matters affecting the socially and educationally backward classes:]

(Part XVI.—Special Provisions Relating to Certain Classes)

¹[Provided that nothing in this clause shall apply for the purposes of clause (3) of article 342A.]

339. Control of the Union over the administration of Scheduled Areas and the welfare of Scheduled Tribes.—(1) The President may at any time and shall, at the expiration of ten years from the commencement of this Constitution by order appoint a Commission to report on the administration of the Scheduled Areas and the welfare of the Scheduled Tribes in the States ^{2***}.

The order may define the composition, powers and procedure of the Commission and may contain such incidental or ancillary provisions as the President may consider necessary or desirable.

(2) The executive power of the Union shall extend to the giving of directions to ³[a State] as to the drawing up and execution of schemes specified in the direction to be essential for the welfare of the Scheduled Tribes in the State.

340. Appointment of a Commission to investigate the conditions of backward classes.—(1) The President may by order appoint a Commission consisting of such persons as he thinks fit to investigate the conditions of socially and educationally backward classes within the territory of India and the difficulties under which they labour and to make recommendations as to the steps that should be taken by the Union or any State to remove such difficulties and to improve their condition and as to the grants that should be made for the purpose by the Union or any State and the conditions subject to which such grants should be made, and the order appointing such Commission shall define the procedure to be followed by the Commission.

(2) A Commission so appointed shall investigate the matters referred to them and present to the President a report setting out the facts as found by them and making such recommendations as they think proper.

(3) The President shall cause a copy of the report so presented together with a memorandum explaining the action taken thereon to be laid before each House of Parliament.

341. Scheduled Castes.—(1) The President ⁴[may with respect to any State ⁵[or Union territory], and where it is a State ^{2***}, after consultation with

1. Ins. by the Constitution (One Hundred and Fifth Amendment) Act, 2021, s. 2 (w.e.f. 15-9-2021).
2. The words and letters for "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).
3. Subs. by s. 29 and Sch. *ibid.* for "any such State" (w.e.f. 1-11-1956).
4. Subs. by the Constitution (First Amendment) Act, 1951, s. 10, for "may, after consultation with the Governor or Rajpramukh of a State" (w.e.f. 18-6-1951).
5. Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

(Part XVI.—Special Provisions Relating to Certain Classes)

the Governor^{1****} thereof], by public notification², specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State³[or Union territory, as the case may be.]

(2) Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under clause (1) any caste, race or tribe or part of or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

342. Scheduled Tribes.—(1) The President⁴[may with respect to any State³[or Union territory], and where it is a State^{5****}, after consultation with the Governor^{1****} thereof], by public notification⁶, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purposes of this Constitution be deemed to be Scheduled Tribes in relation to that State³[or Union territory, as the case may be.]

(2) Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

-
1. The words "or Rajpramukh" omitted by the constitution (Seventh Amendment) Act, 1956, s. 29 and Sch., *ibid.* (w.e.f. 1-11-1956).
 2. See the Constitution (Scheduled Castes) Order, 1950 (C.O. 19), the Constitution (Scheduled Castes) (Union Territories) Order, 1951 (C.O. 32), the Constitution (Jammu and Kashmir) Scheduled Castes Order, 1956 (C.O. 52), the Constitution (Dadra and Nagar Haveli) (Scheduled Castes) Order, 1962 (C.O. 64), the Constitution (Pondicherry) Scheduled Castes Order, 1964 (C.O. 68), the Constitution (Goa, Daman and Diu) Scheduled Castes Order, 1968 (C.O. 81) and the Constitution (Sikkim) Scheduled Castes Order, 1978 (C.O. 110).
 3. Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).
 4. Subs. by the Constitution (First Amendment) Act, 1951, s. 11, for "may, after consultation with the Governor or Rajpramukh of State" (w.e.f. 18-6-1951).
 5. Certain words Omitted by the constitution (Seventh Amendment) Act, 1956, s. 29 and Sch., *ibid.* (w.e.f. 1-11-1956).
 6. See the Constitution (Scheduled Tribes) Order, 1950 (C.O. 22), the Constitution (Scheduled Tribes) (Union Territories) Order, 1951 (C.O. 33), the Constitution (Andaman and Nicobar Islands) (Scheduled Tribes) Order, 1959 (C.O. 58), the Constitution (Dadra and Nagar Haveli) (Scheduled Tribes) Order, 1962 (C.O. 65), the Constitution (Scheduled Tribes) (Uttar Pradesh) Order, 1967 (C.O. 78), the Constitution (Goa, Daman and Diu) Scheduled Tribes Order, 1968 (C.O. 82), the Constitution (Nagaland) Scheduled Tribes Order, 1970 (C.O. 88) the Constitution (Sikkim) Scheduled Tribes Order, 1978 (C.O. 111).

(Part XVI.—Special Provisions Relating to Certain Classes)

¹[**342A. Socially and educationally backward classes.**—(1) The President may with respect to any State or Union territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify ²[the socially and educationally backward classes in the Central List which shall for the purposes of the Central Government] be deemed to be socially and educationally backward classes in relation to that State or Union territory, as the case may be.

(2) Parliament may by law include in or exclude from the Central List of socially and educationally backward classes specified in a notification issued under clause (1) any socially and educationally backward class, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.]

³[*Explanation.*—For the purposes of clauses (1) and (2), the expression “Central List” means the list of socially and educationally backward classes prepared and maintained by and for the Central Government.]

(3) Notwithstanding any contained in clauses (1) and (2), every State or Union territory may, by law, prepare and maintain, for its own purposes, a list of socially and educationally backward classes, entries in which may be different from the Central List.]

-
1. Art 342 A ins. by the Constitution (One Hundred and Second Amendment) Act, 2018, s. 4 (w.e.f. 15-8-2018).
 2. Subs. by the Constitution (One Hundred and Fifth Amendment) Act, 2021, s. 3 for socially and educationally backward classes which shall for the purposes of the Constitution (w.e.f. 15-9-2021).
 3. Ins. by the Constitution (One Hundred and Fifth Amendment) Act, 2021, s. 3 (w.e.f. 15-9-2021).

PART XVII

OFFICIAL LANGUAGE

CHAPTER I.—LANGUAGE OF THE UNION

343. Official language of the Union.—(1) The official language of the Union shall be Hindi in Devanagari script.

The form of numerals to be used for the official purposes of the Union shall be the international form of Indian numerals.

(2) Notwithstanding anything in clause (1), for a period of fifteen years from the commencement of this Constitution, the English language shall continue to be used for all the official purposes of the Union for which it was being used immediately before such commencement:

Provided that the President may, during the said period, by order¹ authorise the use of the Hindi language in addition to the English language and of the Devanagari form of numerals in addition to the international form of Indian numerals for any of the official purposes of the Union.

(3) Notwithstanding anything in this article, Parliament may by law provide for the use, after the said period of fifteen years, of—

(a) the English language; or

(b) the Devanagari form of numerals,

for such purposes as may be specified in the law.

344. Commission and Committee of Parliament on official language.—(1) The President shall, at the expiration of five years from the commencement of this Constitution and thereafter at the expiration of ten years from such commencement, by order constitute a Commission which shall consist of a Chairman and such other members representing the different languages specified in the Eighth Schedule as the President may appoint, and the order shall define the procedure to be followed by the Commission.

(2) It shall be the duty of the Commission to make recommendations to the President as to—

(a) the progressive use of the Hindi language for the official purposes of the Union;

(b) restrictions on the use of the English language for all or any of the official purposes of the Union;

(c) the language to be used for all or any of the purposes mentioned in article 348;

1. See C.O. 41.

(d) the form of numerals to be used for any one or more specified purposes of the Union;

(e) any other matter referred to the Commission by the President as regards the official language of the Union and the language for communication between the Union and a State or between one State and another and their use.

(3) In making their recommendations under clause (2), the Commission shall have due regard to the industrial, cultural and scientific advancement of India, and the just claims and the interests of persons belonging to the non-Hindi speaking areas in regard to the public services.

(4) There shall be constituted a Committee consisting of thirty members, of whom twenty shall be members of the House of the People and ten shall be members of the Council of States to be elected respectively by the members of the House of the People and the members of the Council of States in accordance with the system of proportional representation by means of the single transferable vote.

(5) It shall be the duty of the Committee to examine the recommendations of the Commission constituted under clause (1) and to report to the President their opinion thereon.

(6) Notwithstanding anything in article 343, the President may, after consideration of the report referred to in clause (5), issue directions in accordance with the whole or any part of that report.

CHAPTER II.—REGIONAL LANGUAGES

345. Official language or languages of a State.—Subject to the provisions of articles 346 and 347, the Legislature of a State may by law adopt any one or more of the languages in use in the State or Hindi as the language or languages to be used for all or any of the official purposes of that State:

Provided that, until the Legislature of the State otherwise provides by law, the English language shall continue to be used for those official purposes within the State for which it was being used immediately before the commencement of this Constitution.

346. Official language for communication between one State and another or between a State and the Union.—The language for the time being authorised for use in the Union for official purposes shall be the official language for communication between one State and another State and between a State and the Union:

Provided that if two or more States agree that the Hindi language should be the official language for communication between such States, that language may be used for such communication.

347. Special provision relating to language spoken by a section of the population of a State.—On a demand being made in that behalf the President may, if he is satisfied that a substantial proportion of the population of a State desire the use of any language spoken by them to be recognised by that State, direct that such language shall also be officially recognised throughout that State or any part thereof for such purpose as he may specify.

CHAPTER III.—LANGUAGE OF THE SUPREME COURT,
HIGH COURTS, ETC.

348. Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc.—(1) Notwithstanding anything in the foregoing provisions of this Part, until Parliament by law otherwise provides—

- (a) all proceedings in the Supreme Court and in every High Court;
- (b) the authoritative texts—

(i) of all Bills to be introduced or amendments thereto to be moved in either House of Parliament or in the House or either House of the Legislature of a State;

(ii) of all Acts passed by Parliament or the Legislature of a State and of all Ordinances promulgated by the President or the Governor^{1***} of a State; and

(iii) of all orders, rules, regulations and bye-laws issued under this Constitution or under any law made by Parliament or the Legislature of a State,

shall be in the English language.

(2) Notwithstanding anything in sub-clause (a) of clause (1), the Governor^{1***} of a State may, with the previous consent of the President, authorise the use of the Hindi language, or any other language used for any official purposes of the State, in proceedings in the High Court having its principal seat in that State:

1. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

Provided that nothing in this clause shall apply to any judgment, decree or order passed or made by such High Court.

(3) Notwithstanding anything in sub-clause (b) of clause (1), where the Legislature of a State has prescribed any language other than the English language for use in Bills introduced in, or Acts passed by, the Legislature of the State or in Ordinances promulgated by the Governor ^{1***} of the State or in any order, rule, regulation or bye-law referred to in paragraph (iii) of that sub-clause, a translation of the same in the English language published under the authority of the Governor ^{1***} of the State in the Official Gazette of that State shall be deemed to be the authoritative text thereof in the English language under this article.

349. Special procedure for enactment of certain laws relating to language.—During the period of fifteen years from the commencement of this Constitution, no Bill or amendment making provision for the language to be used for any of the purposes mentioned in clause (1) of article 348 shall be introduced or moved in either House of Parliament without the previous sanction of the President, and the President shall not give his sanction to the introduction of any such Bill or the moving of any such amendment except after he has taken into consideration the recommendations of the Commission constituted under clause (1) of article 344 and the report of the Committee constituted under clause (4) of that article.

CHAPTER IV.—SPECIAL DIRECTIVES

350. Language to be used in representations for redress of grievances.—Every person shall be entitled to submit a representation for the redress of any grievance to any officer or authority of the Union or a State in any of the languages used in the Union or in the State, as the case may be.

²[350A. Facilities for instruction in mother-tongue at primary stage.]—It shall be the endeavour of every State and of every local authority within the State to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups; and the President may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities.

1. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. Arts. 350A and 350B ins. by s.21., *ibid.* (w.e.f. 1-11-1956).

350B. Special Officer for linguistic minorities.—(1) There shall be a Special Officer for linguistic minorities to be appointed by the President.

(2) It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for linguistic minorities under this Constitution and report to the President upon those matters at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament, and sent to the Governments of the States concerned.]

351. Directive for development of the Hindi language.—It shall be the duty of the Union to promote the spread of the Hindi language, to develop it so that it may serve as a medium of expression for all the elements of the composite culture of India and to secure its enrichment by assimilating without interfering with its genius, the forms, style and expressions used in Hindustani and in the other languages of India specified in the Eighth Schedule, and by drawing, wherever necessary or desirable, for its vocabulary, primarily on Sanskrit and secondarily on other languages.

PART XVIII

EMERGENCY PROVISIONS

352. Proclamation of Emergency.—(1) If the President is satisfied that a grave emergency exists whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or ¹[armed rebellion], he may, by Proclamation, make a declaration to that effect ²[in respect of the whole of India or of such part of the territory thereof as may be specified in the Proclamation.]

³[*Explanation.*—A Proclamation of Emergency declaring that the security of India or any part of the territory thereof is threatened by war or by external aggression or by armed rebellion may be made before the actual occurrence of war or of any such aggression or rebellion, if the President is satisfied that there is imminent danger thereof.]

⁴[(2) A Proclamation issued under clause (1) may be varied or revoked by a subsequent Proclamation.

(3) The President shall not issue a Proclamation under clause (1) or a Proclamation varying such Proclamation unless the decision of the Union Cabinet (that is to say, the Council consisting of the Prime Minister and other Ministers of Cabinet rank appointed under article 75) that such a Proclamation may be issued has been communicated to him in writing.

(4) Every Proclamation issued under this article shall be laid before each House of Parliament and shall, except where it is a Proclamation revoking a previous Proclamation, cease to operate at the expiration of one month unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament:

-
1. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 37, for "internal disturbance" (w.e.f. 20-6-1979).
 2. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 48 (w.e.f. 3-1-1977).
 3. Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 37 (w.e.f. 20-6-1979).
 4. Subs. by s. 37, *ibid.*, for cl. (2), (2A) and (3) (w.e.f. 20-6-1979).

THE CONSTITUTION OF INDIA

(Part XVIII.—EMERGENCY PROVISIONS)

Provided that if any such Proclamation (not being a Proclamation revoking a previous Proclamation) is issued at a time when the House of the People has been dissolved, or the dissolution of the House of the People takes place during the period of one month referred to in this clause, and if a resolution approving the Proclamation has been passed by the Council of States, but no resolution with respect to such Proclamation has been passed by the House of the People before the expiration of that period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution, unless before the expiration of the said period of thirty days a resolution approving the Proclamation has been also passed by the House of the People.

(5) A Proclamation so approved shall, unless revoked, cease to operate on the expiration of a period of six months from the date of the passing of the second of the resolutions approving the Proclamation under clause (4):

Provided that if and so often as a resolution approving the continuance in force of such a Proclamation is passed by both Houses of Parliament the Proclamation shall, unless revoked, continue in force for a further period of six months from the date on which it would otherwise have ceased to operate under this clause:

Provided further that if the dissolution of the House of the People takes place during any such period of six months and a resolution approving the continuance in force of such Proclamation has been passed by the Council of States but no resolution with respect to the continuance in force of such Proclamation has been passed by the House of the People during the said period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days, a resolution approving the continuance in force of the Proclamation has been also passed by the House of the People.

(6) For the purposes of clauses (4) and (5), a resolution may be passed by either House of Parliament only by a majority of the total membership of that House and by a majority of not less than two-thirds of the Members of that House present and voting.

(7) Notwithstanding anything contained in the foregoing clauses, the President shall revoke a Proclamation issued under clause (1) or a Proclamation varying such Proclamation if the House of the People passes a resolution disapproving, or, as the case may be, disapproving the continuance in force of, such Proclamation.

THE CONSTITUTION OF INDIA

(Part XVIII.—EMERGENCY PROVISIONS)

(8) Where a notice in writing signed by not less than one-tenth of the total number of members of the House of the People has been given, of their intention to move a resolution for disapproving, or, as the case may be, for disapproving the continuance in force of, a Proclamation issued under clause (1) or a Proclamation varying such Proclamation,—

- (a) to the Speaker, if the House is in session; or
- (b) to the President, if the House is not in session,

a special sitting of the House shall be held within fourteen days from the date on which such notice is received by the Speaker, or, as the case may be, by the President, for the purpose of considering such resolution.]

¹[(9) The power conferred on the President by this article shall include the power to issue different Proclamations on different grounds, being war or external aggression or ²[armed rebellion] or imminent danger of war or external aggression or ²[armed rebellion], whether or not there is a Proclamation already issued by the President under clause (1) and such Proclamation is in operation.

* * * * *

353. Effect of Proclamation of Emergency.—While a Proclamation of Emergency is in operation, then—

(a) notwithstanding anything in this Constitution, the executive power of the Union shall extend to the giving of directions to any State as to the manner in which the executive power thereof is to be exercised;

(b) the power of Parliament to make laws with respect to any matter shall include power to make laws conferring powers and imposing duties, or authorising the conferring of powers and the imposition of duties, upon the Union or officers and authorities of the Union as respects that matter, notwithstanding that it is one which is not enumerated in the Union List:

1. Cls. (4) and (5) ins. by the Constitution (Thirty-eighth Amendment) Act, 1975, s. 5 (with retrospective effect) and subsequently cl. (4) renumbered as cl. (9) and cl. (5) omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 37 (w.e.f. 20-6-1979).

2. Subs. by s. 37, *ibid.* for "internal disturbance" (w.e.f. 20-6-1979).

¹[Provided that where a Proclamation of Emergency is in operation only in any part of the territory of India,—

(i) the executive power of the Union to give directions under clause (a), and

(ii) the power of Parliament to make laws under clause (b),

shall also extend to any State other than a State in which or in any part of which the Proclamation of Emergency is in operation if and in so far as the security of India or any part of the territory thereof is threatened by activities in or in relation to the part of the territory of India in which the Proclamation of Emergency is in operation.]

354. Application of provisions relating to distribution of revenues while a Proclamation of Emergency is in operation.—(1) The President may, while a Proclamation of Emergency is in operation, by order direct that all or any of the provisions of articles 268 to 279 shall for such period, not extending in any case beyond the expiration of the financial year in which such Proclamation ceases to operate, as may be specified in the order, have effect subject to such exceptions or modifications as he thinks fit.

(2) Every order made under clause (1) shall, as soon as may be after it is made, be laid before each House of Parliament.

355. Duty of the Union to protect States against external aggression and internal disturbance.—It shall be the duty of the Union to protect every State against external aggression and internal disturbance and to ensure that the Government of every State is carried on in accordance with the provisions of this Constitution.

356. Provisions in case of failure of constitutional machinery in States.—(1) If the President, on receipt of a report from the Governor^{2***} of a State or otherwise, is satisfied that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of this Constitution, the President may by Proclamation—

1. Added by the Constitution (Forty-second Amendment) Act, 1976, s. 49 (w.e.f. 3-1-1977).

2. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

THE CONSTITUTION OF INDIA

(Part XVIII.—EMERGENCY PROVISIONS)

(a) assume to himself all or any of the functions of the Government of the State and all or any of the powers vested in or exercisable by the Governor^{1***} or any body or authority in the State other than the Legislature of the State;

(b) declare that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament;

(c) make such incidental and consequential provisions as appear to the President to be necessary or desirable for giving effect to the objects of the Proclamation, including provisions for suspending in whole or in part the operation of any provisions of this Constitution relating to any body or authority in the State:

Provided that nothing in this clause shall authorise the President to assume to himself any of the powers vested in or exercisable by a High Court, or to suspend in whole or in part the operation of any provision of this Constitution relating to High Courts.

(2) Any such Proclamation may be revoked or varied by a subsequent Proclamation.

(3) Every Proclamation under this article shall be laid before each House of Parliament and shall, except where it is a Proclamation revoking a previous Proclamation, cease to operate at the expiration of two months unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament:

Provided that if any such Proclamation (not being a Proclamation revoking a previous Proclamation) is issued at a time when the House of the People is dissolved or the dissolution of the House of the People takes place during the period of two months referred to in this clause, and if a resolution approving the Proclamation has been passed by the Council of States, but no resolution with respect to such Proclamation has been passed by the House of the People before the expiration of that period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the Proclamation has been also passed by the House of the People.

1. The words "or Rajpramukh, as the case may be" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

(4) A Proclamation so approved shall, unless revoked, cease to operate on the expiration of a period of ¹[six months from the date of issue of the Proclamation]:

Provided that if and so often as a resolution approving the continuance in force of such a Proclamation is passed by both Houses of Parliament, the Proclamation shall, unless revoked, continue in force for a further period of ²[six months] from the date on which under this clause it would otherwise have ceased to operate, but no such Proclamation shall in any case remain in force for more than three years:

Provided further that if the dissolution of the House of the People takes place during any such period of ²[six months] and a resolution approving the continuance in force of such Proclamation has been passed by the Council of States, but no resolution with respect to the continuance in force of such Proclamation has been passed by the House of the People during the said period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the continuance in force of the Proclamation has been also passed by the House of the People:

³[Provided also that in the case of the Proclamation issued under clause (1) on the 11th day of May, 1987 with respect to the State of Punjab, the reference in the first proviso to this clause to "three years" shall be construed as a reference to ⁴[five years].]

-
1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 50, for "six months" (w.e.f. 3-1-1977) and further subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 38, for "one year from the date of the passing of the second of the resolutions approving the Proclamation under clause (3)" (w.e.f. 20-6-1979).
 2. Subs. by s. 50, *ibid.*, for "six months" (w.e.f. 3-1-1977) and further subs. by s. 38, *ibid.*, for "one year", respectively (w.e.f. 20-6-1979).
 3. Ins. by the Constitution (Sixty-fourth Amendment) Act, 1990, s. 2 (w.e.f. 16-4-1990).
 4. Subs. by the Constitution (Sixty-seventh Amendment) Act, 1990, s. 2 (w.e.f. 4-10-1990) and further subs. by the Constitution (Sixty-eighth Amendment) Act, 1991, s. 2 (w.e.f. 12-3-1991).

THE CONSTITUTION OF INDIA

(Part XVIII.—EMERGENCY PROVISIONS)

¹[(5) Notwithstanding anything contained in clause (4), a resolution with respect to the continuance in force of a Proclamation approved under clause (3) for any period beyond the expiration of one year from the date of issue of such Proclamation shall not be passed by either House of Parliament unless—

(a) a Proclamation of Emergency is in operation, in the whole of India or, as the case may be, in the whole or any part of the State, at the time of the passing of such resolution, and

(b) the Election Commission certifies that the continuance in force of the Proclamation approved under clause (3) during the period specified in such resolution is necessary on account of difficulties in holding general elections to the Legislative Assembly of the State concerned:]

²[Provided that nothing in this clause shall apply to the Proclamation issued under clause (1) on the 11th day of May, 1987 with respect to the State of Punjab.]

357. Exercise of legislative powers under Proclamation issued under article 356.—(1) Where by a Proclamation issued under clause (1) of article 356, it has been declared that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament, it shall be competent—

(a) for Parliament to confer on the President the power of the Legislature of the State to make laws, and to authorise the President to delegate, subject to such conditions as he may think fit to impose, the power so conferred to any other authority to be specified by him in that behalf;

(b) for Parliament, or for the President or other authority in whom such power to make laws is vested under sub-clause (a), to make laws conferring powers and imposing duties, or authorising the conferring of powers and the imposition of duties, upon the Union or officers and authorities thereof;

(c) for the President to authorise when the House of the People is not in session expenditure from the Consolidated Fund of the State pending the sanction of such expenditure by Parliament.

1. Ins. by the Constitution (Thirty-eighth Amendment) Act, 1975, s. 6 (with retrospective effect) and subsequently subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 38, for cl. (5) (w.e.f. 20-6-1979).

2. Proviso omitted by the Constitution (Sixty-third Amendment) Act, 1989, s. 2 (w.e.f. 6-1-1990) and subsequently ins. by the Constitution (Sixty-fourth Amendment) Act, 1990, s. 2 (w.e.f. 16-4-1990).

¹[(2) Any law made in exercise of the power of the Legislature of the State by Parliament or the President or other authority referred to in sub-clause (a) of clause (1) which Parliament or the President or such other authority would not, but for the issue of a Proclamation under article 356, have been competent to make shall, after the Proclamation has ceased to operate, continue in force until altered or repealed or amended by a competent Legislature or other authority.]

358. Suspension of provisions of article 19 during emergencies.—²[(1)] ³[While a Proclamation of Emergency declaring that the security of India or any part of the territory thereof is threatened by war or by external aggression is in operation], nothing in article 19 shall restrict the power of the State as defined in Part III to make any law or to take any executive action which the State would but for the provisions contained in that Part be competent to make or to take, but any law so made shall, to the extent of the incompetency, cease to have effect as soon as the Proclamation ceases to operate, except as respects things done or omitted to be done before the law so ceases to have effect:

⁴[Provided that ⁵[where such Proclamation of Emergency] is in operation only in any part of the territory of India, any such law may be made, or any such executive action may be taken, under this article in relation to or in any State or Union territory in which or in any part of which the Proclamation of Emergency is not in operation, if and in so far as the security of India or any part of the territory thereof is threatened by activities in or in relation to the part of the territory of India in which the Proclamation of Emergency is in operation.]

⁶[(2) Nothing in clause (1) shall apply—

-
1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 51 (w.e.f. 3-1-1977).
 2. Art. 358 re-numbered as cl. (1) by the Constitution (Forty-fourth Amendment) Act, 1978, s. 39 (w.e.f. 20-6-1979).
 3. Subs. by s. 39, *ibid*, for "While a Proclamation of Emergency is in operation" (w.e.f. 20-6-1979).
 4. Added by the Constitution (Forty-second Amendment) Act, 1976, s. 52 (w.e.f. 3-1-1977).
 5. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 39, for "where a Proclamation of Emergency" (w.e.f. 20-6-1979).
 6. Ins. by s. 39, *ibid*. (w.e.f. 20-6-1979).

(a) to any law which does not contain a recital to the effect that such law is in relation to the Proclamation of Emergency in operation when it is made; or

(b) to any executive action taken otherwise than under a law containing such a recital.]

359. Suspension of the enforcement of the rights conferred by Part III during emergencies.—(1) Where a Proclamation of Emergency is in operation, the President may by order declare that the right to move any court for the enforcement of such of¹[the rights conferred by Part III (except articles 20 and 21)] as may be mentioned in the order and all proceedings pending in any court for the enforcement of the rights so mentioned shall remain suspended for the period during which the Proclamation is in force or for such shorter period as may be specified in the order.

²[(1A) While an order made under clause (1) mentioning any of¹[the rights conferred by Part III (except articles 20 and 21)] is in operation, nothing in that Part conferring those rights shall restrict the power of the State as defined in the said Part to make any law or to take any executive action which the State would but for the provisions contained in that Part be competent to make or to take, but any law so made shall, to the extent of the incompetency, cease to have effect as soon as the order aforesaid ceases to operate, except as respects things done or omitted to be done before the law so ceases to have effect:]

³[Provided that where a Proclamation of Emergency is in operation only in any part of the territory of India, any such law may be made, or any such executive action may be taken, under this article in relation to or in any State or Union territory in which or in any part of which the Proclamation of Emergency is not in operation, if and in so far as the security of India or any part of the territory thereof is threatened by activities in or in relation to the part of the territory of India in which the Proclamation of Emergency is in operation.]

-
1. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 40, for "the rights conferred by Part III" (w.e.f. 20-6-1979).
 2. Ins. by the Constitution (Thirty-eighth Amendment) Act, 1975, s. 7 (with retrospective effect).
 3. Added by the Constitution (Forty-second Amendment) Act, 1976, s. 53 (w.e.f. 3-1-1977).

THE CONSTITUTION OF INDIA

(Part XVIII.—EMERGENCY PROVISIONS)

¹[(1B) Nothing in clause (1A) shall apply—

(a) to any law which does not contain a recital to the effect that such law is in relation to the Proclamation of Emergency in operation when it is made; or

(b) to any executive action taken otherwise than under a law containing such a recital.]

(2) An order made as aforesaid may extend to the whole or any part of the territory of India:

²[Provided that where a Proclamation of Emergency is in operation only in a part of the territory of India, any such order shall not extend to any other part of the territory of India unless the President, being satisfied that the security of India or any part of the territory thereof is threatened by activities in or in relation to the part of the territory of India in which the Proclamation of Emergency is in operation, considers such extension to be necessary.]

(3) Every order made under clause (1) shall, as soon as may be after it is made, be laid before each House of Parliament.

³**359A.** [*Application of this Part to the State of Punjab.*]—Omitted by the Constitution (Sixty-third Amendment) Act, 1989, s. 3 (w.e.f. 6-1-1990).

360. Provisions as to financial emergency.—(1) If the President is satisfied that a situation has arisen whereby the financial stability or credit of India or of any part of the territory thereof is threatened, he may by a Proclamation make a declaration to that effect.

⁴[(2) A Proclamation issued under clause (1)—

(a) may be revoked or varied by a subsequent Proclamation;

(b) shall be laid before each House of Parliament;

-
1. Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 40 (w.e.f. 20-6-1979).
 2. Added by the Constitution (Forty-second Amendment) Act, 1976, s. 53 (w.e.f. 3-1-1977).
 3. Ins. by the Constitution (Fifty-ninth Amendment) Act, 1988, s. 3 (w.e.f. 30-3-1988) and ceased to operate on the expiry of a period of two years from the commencement of that Act, i.e. 30th day of March, 1988.
 4. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 41, for cl. (2) (w.e.f. 20-6-1979).

THE CONSTITUTION OF INDIA

(Part XVIII.—EMERGENCY PROVISIONS)

(c) shall cease to operate at the expiration of two months, unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament:

Provided that if any such Proclamation is issued at a time when the House of the People has been dissolved or the dissolution of the House of the People takes place during the period of two months referred to in sub-clause (c), and if a resolution approving the Proclamation has been passed by the Council of States, but no resolution with respect to such Proclamation has been passed by the House of the People before the expiration of that period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the Proclamation has been also passed by the House of the People.]

(3) During the period any such Proclamation as is mentioned in clause (1) is in operation, the executive authority of the Union shall extend to the giving of directions to any State to observe such canons of financial propriety as may be specified in the directions, and to the giving of such other directions as the President may deem necessary and adequate for the purpose.

(4) Notwithstanding anything in this Constitution—

(a) any such direction may include—

(i) a provision requiring the reduction of salaries and allowances of all or any class of persons serving in connection with the affairs of a State;

(ii) a provision requiring all Money Bills or other Bills to which the provisions of article 207 apply to be reserved for the consideration of the President after they are passed by the Legislature of the State;

(b) it shall be competent for the President during the period any Proclamation issued under this article is in operation to issue directions for the reduction of salaries and allowances of all or any class of persons serving in connection with the affairs of the Union including the Judges of the Supreme Court and the High Courts.

¹[(5) * * * * *]

1. Ins. by the Constitution (Thirty-eighth Amendment) Act, 1975, s. 8 (with retrospective effect) and omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 41 (w.e.f. 20-6-1979).

PART XIX

MISCELLANEOUS

361. Protection of President and Governors and Rajpramukhs.—(1)

The President, or the Governor or Rajpramukh of a State, shall not be answerable to any court for the exercise and performance of the powers and duties of his office or for any act done or purporting to be done by him in the exercise and performance of those powers and duties:

Provided that the conduct of the President may be brought under review by any court, tribunal or body appointed or designated by either House of Parliament for the investigation of a charge under article 61:

Provided further that nothing in this clause shall be construed as restricting the right of any person to bring appropriate proceedings against the Government of India or the Government of a State.

(2) No criminal proceedings whatsoever shall be instituted or continued against the President, or the Governor ^{1***} of a State, in any court during his term of office.

(3) No process for the arrest or imprisonment of the President, or the Governor ^{1***} of a State, shall issue from any court during his term of office.

(4) No civil proceedings in which relief is claimed against the President, or the Governor ^{1***} of a State, shall be instituted during his term of office in any court in respect of any act done or purporting to be done by him in his personal capacity, whether before or after he entered upon his office as President, or as Governor ^{1***} of such State, until the expiration of two months next after notice in writing has been delivered to the President or the Governor ^{1***}, as the case may be, or left at his office stating the nature of the proceedings, the cause of action therefor, the name, description and place of residence of the party by whom such proceedings are to be instituted and the relief which he claims.

1. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

¹[**361A. Protection of publication of proceedings of Parliament and State Legislatures.**—(1) No person shall be liable to any proceedings, civil or criminal, in any court in respect of the publication in a newspaper of a substantially true report of any proceedings of either House of Parliament or the Legislative Assembly, or, as the case may be, either House of the Legislature, of a State, unless the publication is proved to have been made with malice:

Provided that nothing in this clause shall apply to the publication of any report of the proceedings of a secret sitting of either House of Parliament or the Legislative Assembly, or, as the case may be, either House of the Legislature, of a State.

(2) Clause (1) shall apply in relation to reports or matters broadcast by means of wireless telegraphy as part of any programme or service provided by means of a broadcasting station as it applies in relation to reports or matters published in a newspaper.

Explanation.—In this article, “newspaper” includes a news agency report containing material for publication in a newspaper.]

²[**361B. Disqualification for appointment on remunerative political post.**—A member of a House belonging to any political party who is disqualified for being a member of the House under paragraph 2 of the Tenth Schedule shall also be disqualified to hold any remunerative political post for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or till the date on which he contests an election to a House and is declared elected, whichever is earlier.

Explanation.—For the purposes of this article,—

(a) the expression “House” has the meaning assigned to it in clause (a) of paragraph 1 of the Tenth Schedule;

(b) the expression “remunerative political post” means any office—

(i) under the Government of India or the Government of a State where the salary or remuneration for such office is paid out of the public revenue of the Government of India or the Government of the State, as the case may be; or

1. Art. 361A ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 42
(w.e.f. 20-6-1979).

2. Art. 361B ins. by the Constitution (Ninety-first Amendment) Act, 2003, s. 4
(w.e.f. 1-1-2004).

THE CONSTITUTION OF INDIA

(Part XIX.—MISCELLANEOUS)

(ii) under a body, whether incorporated or not, which is wholly or partially owned by the Government of India or the Government of State, and the salary or remuneration for such office is paid by such body,

except where such salary or remuneration paid is compensatory in nature.]

362. [Rights and privileges of Rulers of Indian States].—*Omitted by the Constitution (Twenty-sixth Amendment) Act, 1971, s. 2 (w.e.f. 28-12-1971).*

363. Bar to interference by courts in disputes arising out of certain treaties, agreements, etc.—(1) Notwithstanding anything in this Constitution but subject to the provisions of article 143, neither the Supreme Court nor any other court shall have jurisdiction in any dispute arising out of any provision of a treaty, agreement, covenant, engagement, *sanad* or other similar instrument which was entered into or executed before the commencement of this Constitution by any Ruler of an Indian State and to which the Government of the Dominion of India or any of its predecessor Governments was a party and which has or has been continued in operation after such commencement, or in any dispute in respect of any right accruing under or any liability or obligation arising out of any of the provisions of this Constitution relating to any such treaty, agreement, covenant, engagement, *sanad* or other similar instrument.

(2) In this article—

(a) “Indian State” means any territory recognised before the commencement of this Constitution by His Majesty or the Government of the Dominion of India as being such a State; and

(b) “Ruler” includes the Prince, Chief or other person recognised before such commencement by His Majesty or the Government of the Dominion of India as the Ruler of any Indian State.

¹[363A. Recognition granted to Rulers of Indian States to cease and privy purses to be abolished.]—Notwithstanding anything in this Constitution or in any law for the time being in force—

(a) the Prince, Chief or other person who, at any time before the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, was recognised by the President as the Ruler of an Indian State or any person who, at any time before such commencement, was recognised by the President as the successor of such ruler shall, on and from such commencement, cease to be recognised as such Ruler or the successor of such Ruler;

1. Art. 363A ins. by the Constitution (Twenty-sixth Amendment) Act, 1971, s. 3 (w.e.f. 28-12-1971).

(b) on and from the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, privy purse is abolished and all rights, liabilities and obligations in respect of *privy purse* are extinguished and accordingly the Ruler or, as the case may be, the successor of such Ruler, referred to in clause (a) or any other person shall not be paid any sum as *privy purse*.]

364. Special provisions as to major ports and aerodromes.—(1) Notwithstanding anything in this Constitution, the President may by public notification direct that as from such date as may be specified in the notification—

(a) any law made by Parliament or by the Legislature of a State shall not apply to any major port or aerodrome or shall apply thereto subject to such exceptions or modifications as may be specified in the notification; or

(b) any existing law shall cease to have effect in any major port or aerodrome except as respects things done or omitted to be done before the said date, or shall in its application to such port or aerodrome have effect subject to such exceptions or modifications as may be specified in the notification.

(2) In this article—

(a) “major port” means a port declared to be a major port by or under any law made by Parliament or any existing law and includes all areas for the time being included within the limits of such port;

(b) “aerodrome” means aerodrome as defined for the purposes of the enactments relating to airways, aircraft and air navigation.

365. Effect of failure to comply with, or to give effect to, directions given by the Union.—Where any State has failed to comply with, or to give effect to, any directions given in the exercise of the executive power of the Union under any of the provisions of this Constitution, it shall be lawful for the President to hold that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of this Constitution.

366. Definitions.—In this Constitution, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

(1) “agricultural income” means agricultural income as defined for the purposes of the enactments relating to Indian income-tax;

THE CONSTITUTION OF INDIA

(Part XIX.—MISCELLANEOUS)

(2) “an Anglo-Indian” means a person whose father or any of whose other male progenitors in the male line is or was of European descent but who is domiciled within the territory of India and is or was born within such territory of parents habitually resident therein and not established there for temporary purposes only;

(3) “article” means an article of this Constitution;

(4) “borrow” includes the raising of money by the grant of annuities, and “loan” shall be construed accordingly;

¹[(4A)* * * *]

(5) “clause” means a clause of the article in which the expression occurs;

(6) “corporation tax” means any tax on income, so far as that tax is payable by companies and is a tax in the case of which the following conditions are fulfilled:—

(a) that it is not chargeable in respect of agricultural income;

(b) that no deduction in respect of the tax paid by companies is, by any enactments which may apply to the tax, authorised to be made from dividends payable by the companies to individuals;

(c) that no provision exists for taking the tax so paid into account in computing for the purposes of Indian income-tax the total income of individuals receiving such dividends, or in computing the Indian income-tax payable by, or refundable to, such individuals;

(7) “corresponding Province”, “corresponding Indian State” or “corresponding State” means in cases of doubt such Province, Indian State or State as may be determined by the President to be the corresponding Province, the corresponding Indian State or the corresponding State, as the case may be, for the particular purpose in question;

1. Cl. (4A) was ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 54 (w.e.f. 1-2-1977) and subsequently omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 11 (w.e.f. 13-4-1978).

THE CONSTITUTION OF INDIA

(Part XIX.—MISCELLANEOUS)

(8) “debt” includes any liability in respect of any obligation to repay capital sums by way of annuities and any liability under any guarantee, and “debt charges” shall be construed accordingly;

(9) “estate duty” means a duty to be assessed on or by reference to the principal value, ascertained in accordance with such rules as may be prescribed by or under laws made by Parliament or the Legislature of a State relating to the duty, of all property passing upon death or deemed, under the provisions of the said laws, so to pass;

(10) “existing law” means any law, Ordinance, order, bye-law, rule or regulation passed or made before the commencement of this Constitution by any Legislature, authority or person having power to make such a law, Ordinance, order, bye-law, rule or regulation;

(11) “Federal Court” means the Federal Court constituted under the Government of India Act, 1935;

(12) “goods” includes all materials, commodities, and articles;

¹[(12A) “goods and services tax” means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption];

(13) “guarantee” includes any obligation undertaken before the commencement of this Constitution to make payments in the event of the profits of an undertaking falling short of a specified amount;

(14) “High Court” means any Court which is deemed for the purposes of this Constitution to be a High Court for any State and includes—

(a) any Court in the territory of India constituted or reconstituted under this Constitution as a High Court; and

(b) any other Court in the territory of India which may be declared by Parliament by law to be a High Court for all or any of the purposes of this Constitution;

(15) “Indian State” means any territory which the Government of the Dominion of India recognised as such a State;

1. Ins. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 14(i) (w.e.f. 16-9-2016).

THE CONSTITUTION OF INDIA

(Part XIX.—MISCELLANEOUS)

(16) "Part" means a Part of this Constitution;

(17) "pension" means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of any person, and includes retired pay so payable; a gratuity so payable and any sum or sums so payable by way of the return, with or without interest thereon or any other addition thereto, of subscriptions to a provident fund;

(18) "Proclamation of Emergency" means a Proclamation issued under clause (1) of article 352;

(19) "public notification" means a notification in the Gazette of India, or, as the case may be, the Official Gazette of a State;

(20) "railway" does not include—

(a) a tramway wholly within a municipal area; or

(b) any other line of communication wholly situate in one State and declared by Parliament by law not to be a railway;

¹[(21)* * * *]

²[(22) "Ruler" means the Prince, Chief or other person who, at any time before the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, was recognised by the President as the Ruler of an Indian State or any person who, at any time before such commencement, was recognised by the President as the successor of such Ruler;]

(23) "Schedule" means a Schedule to this Constitution;

(24) "Scheduled Castes" means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under article 341 to be Scheduled Castes for the purposes of this Constitution;

(25) "Scheduled Tribes" means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be Scheduled Tribes for the purposes of this Constitution;

1. Cl. (21) omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. Subs. by the Constitution (Twenty-sixth Amendment) Act, 1971, s. 4 (w.e.f. 28-12-1971).

THE CONSTITUTION OF INDIA

(Part XIX.—MISCELLANEOUS)

(26) "securities" includes stock;

* * *

²[(26A) "Services" means anything other than goods;

(26B) "State" with reference to articles 246A, 268, 269, 269A and article 279A includes a Union territory with Legislature];

³[(26C) "socially and educationally backward classes" means such backward classes as are so deemed under article 342A for the purposes of the Central Government or the State or Union territory, as the case may be];

(27) "sub-clause" means a sub-clause of the clause in which the expression occurs;

(28) "taxation" includes the imposition of any tax or impost, whether general or local or special, and "tax" shall be construed accordingly;

(29) "tax on income" includes a tax in the nature of an excess profits tax;

⁴[(29A) "tax on the sale or purchase of goods" includes—

(a) a tax on the transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;

(b) a tax on the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;

(c) a tax on the delivery of goods on hire-purchase or any system of payment by instalments;

(d) a tax on the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;

1. Cl. (26A) was ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 54 (w.e.f. 1-2-1977), and subsequently omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 11 (w.e.f. 13-4-1978).
2. Ins. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 14(ii) (w.e.f. 16-9-2016).
3. Cl. (26C) was ins. by the Constitution (One Hundred and second Amendment) Act, 2018, s. 5 (w.e.f. 14-8-2018), and subsequently subs. by the Constitution (One Hundred and Fifth Amendment) Act, 2021, s. 4 (w.e.f. 15-9-2021).
4. Cl. (29A) ins. by the Constitution (Forty-sixth Amendment) Act, 1982, s. 4 (w.e.f. 2-2-1983).

THE CONSTITUTION OF INDIA

(Part XIX.—MISCELLANEOUS)

(e) a tax on the supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration;

(f) a tax on the supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service, is for cash, deferred payment or other valuable consideration,

and such transfer, delivery or supply of any goods shall be deemed to be a sale of those goods by the person making the transfer, delivery or supply and a purchase of those goods by the person to whom such transfer, delivery or supply is made;]

[(30) "Union territory" means any Union territory specified in the First Schedule and includes any other territory comprised within the territory of India but not specified in that Schedule.]

367. Interpretation.—(1) Unless the context otherwise requires, the General Clauses Act, 1897, shall, subject to any adaptations and modifications that may be made therein under article 372, apply for the interpretation of this Constitution as it applies for the interpretation of an Act of the Legislature of the Dominion of India.

(2) Any reference in this Constitution to Acts or laws of, or made by, Parliament, or to Acts or laws of, or made by, the Legislature of a State^{2***}, shall be construed as including a reference to an Ordinance made by the President or, to an Ordinance made by a Governor^{3***}, as the case may be.

(3) For the purposes of this Constitution "foreign State" means any State other than India:

Provided that, subject to the provisions of any law made by Parliament, the President may by order⁴ declare any State not to be a foreign State for such purposes as may be specified in the order.

⁵[(4) * * * *]

1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. for cl. (30) (w.e.f. 1-11-1956).

2. The words and letters "specified in Part A or Part B of the First Schedule" omitted by s. 29 and Sch., *ibid.* (w.e.f. 1-11-1956).

3. The words "or Rajpramukh" omitted by s. 29 and Sch., *ibid.* (w.e.f. 1-11-1956).

4. See the Constitution (Declaration as to Foreign States) Order, 1950 (C.O. 2).

5. Added by the Constitution (Application to Jammu and Kashmir) Order, 2019 (C.O. 272) (w.e.f. 5-8-2019), for the text of this C.O., see Appendix II.

PART XX

AMENDMENT OF THE CONSTITUTION

368. ¹[Power of Parliament to amend the Constitution and procedure therefor].—²[(1) Notwithstanding anything in this Constitution, Parliament may in exercise of its constituent power amend by way of addition, variation or repeal any provision of this Constitution in accordance with the procedure laid down in this article.]

³[(2)] An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, ⁴[it shall be presented to the President who shall give his assent to the Bill and thereupon] the Constitution shall stand amended in accordance with the terms of the Bill:

Provided that if such amendment seeks to make any change in—

- (a) article 54, article 55, article 73, ⁵[article 162, article 241 or article 279A]; or
- (b) Chapter IV of Part V, Chapter V of Part VI, or Chapter I of Part XI; or
- (c) any of the Lists in the Seventh Schedule; or
- (d) the representation of States in Parliament; or
- (e) the provisions of this article,

1. Subs. by the Constitution (Twenty-fourth Amendment) Act, 1971, s. 3, for "Procedure for amendment of the Constitution" (w.e.f. 5-11-1971).
2. Ins. by s. 3, *ibid.* (w.e.f. 5-11-1971).
3. Art. 368 re-numbered as cl. (2) thereof by s. 3, *ibid.* (w.e.f. 5-11-1971).
4. Subs. by s. 3, *ibid.*, (w.e.f. 5-11-1971).
5. Subs. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 15, for the words and figures "article 162 or article 241" (w.e.f. 16-9-2016).

the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States ^{1***} by resolutions to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent.

²[(3) Nothing in article 13 shall apply to any amendment made under this article.]

³[(4) No amendment of this Constitution (including the provisions of Part III) made or purporting to have been made under this article [whether before or after the commencement of section 55 of the Constitution (Forty-second Amendment) Act, 1976] shall be called in question in any court on any ground.

(5) For the removal of doubts, it is hereby declared that there shall be no limitation whatever on the constituent power of Parliament to amend by way of addition, variation or repeal the provisions of this Constitution under this article.]

-
1. The words and letters "specified in Part A and Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).
 2. Ins. by the Constitution (Twenty-fourth Amendment) Act, 1971, s. 3 (w.e.f. 5-11-1971).
 3. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 55 (w.e.f. 3-1-1977). This section has been declared invalid by the Supreme Court in *Minerva Mills Ltd. and Others Vs. Union of India and Others* AIR 1980 SC 1789.

PART XXI

¹[TEMPORARY, TRANSITIONAL AND SPECIAL PROVISIONS]

369. Temporary power to Parliament to make laws with respect to certain matters in the State List as if they were matters in the Concurrent List.—Notwithstanding anything in this Constitution, Parliament shall, during a period of five years from the commencement of this Constitution, have power to make laws with respect to the following matters as if they were enumerated in the Concurrent List, namely:—

(a) trade and commerce within a State in, and the production, supply and distribution of, cotton and woollen textiles, raw cotton (including ginned cotton and unginned cotton or *kapas*), cotton seed, paper (including newsprint), food-stuffs (including edible oilseeds and oil), cattle fodder (including oil-cakes and other concentrates), coal (including coke and derivatives of coal), iron, steel and mica;

(b) offences against laws with respect to any of the matters mentioned in clause (a), jurisdiction and powers of all courts except the Supreme Court with respect to any of those matters, and fees in respect of any of those matters but not including fees taken in any court,

but any law made by Parliament, which Parliament would not but for the provisions of this article have been competent to make, shall, to the extent of the incompetency, cease to have effect on the expiration of the said period, except as respects things done or omitted to be done before the expiration thereof.

1. Subs. by the Constitution (Thirteenth Amendment) Act, 1962, s. 2, for "TEMPORARY AND TRANSITIONAL PROVISIONS" (w.e.f. 1-12-1963).

THE CONSTITUTION OF INDIA

(Part XXI.—Temporary, Transitional and Special Provisions)

****¹[370. Temporary provisions with respect to the State of Jammu and Kashmir.]**—(1) Notwithstanding anything in this Constitution,—

(a) the provisions of article 238 shall not apply in relation to the State of Jammu and Kashmir;

(b) the power of Parliament to make laws for the said State shall be limited to—

(i) those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for that State; and

** In exercise of the powers conferred by clause (3) of article 370 read with clause (1) of article 370 of the Constitution of India, the President, on the recommendation of Parliament, is pleased to declare that, as from the 6th August, 2019 all clauses of said article 370 shall cease to be operative except the following which shall read as under, namely:—

“370. All provisions of this Constitution, as amended from time to time, without any modifications or exceptions, shall apply to the State of Jammu and Kashmir notwithstanding anything contrary contained in article 152 or article 308 or any other article of this Constitution or any other provision of the Constitution of Jammu and Kashmir or any law, document, judgment, ordinance, order, by-law, rule, regulation, notification, custom or usage having the force of law in the territory of India, or any other instrument, treaty or agreement as envisaged under article 363 or otherwise.”.

(See Appendix III (C.O. 273).

1. In exercise of the powers conferred by clause (3) of the Constitution of India, the President, on the recommendation of the Constituent Assembly of the State of Jammu and Kashmir, declared that, as from the 17th day of November, 1952, the said art. 370 shall be operative with the modification that for the *Explanation* in cl. (1) thereof, the following *Explanation* is substituted, namely:—

“Explanation.—For the purposes of this article, the Government of the State means the person for the time being recognised by the President on the recommendation of the Legislative Assembly of the State as the *Sadar-I-Riyasat of Jammu and Kashmir, acting on the advice of the Council of Ministers of the State for the time being in office.”.

(C.O. 44, dated the 15th November, 1952).

*Now “Governor”.

THE CONSTITUTION OF INDIA

(Part XXI.—Temporary, Transitional and Special Provisions)

(ii) such other matters in the said Lists as, with the concurrence of the Government of the State, the President may by order specify.

Explanation.—For the purposes of this article, the Government of the State means the person for the time being recognised by the President as the Maharaja of Jammu and Kashmir acting on the advice of the Council of Ministers for the time being in office under the Maharaja's Proclamation dated the fifth day of March, 1948;

(c) the provisions of article 1 and of this article shall apply in relation to that State;

(d) such of the other provisions of this Constitution shall apply in relation to that State subject to such exceptions and modifications as the President may by order* specify:

Provided that no such order which relates to the matters specified in the Instrument of Accession of the State referred to in paragraph (i) of sub-clause (b) shall be issued except in consultation with the Government of the State:

Provided further that no such order which relates to matters other than those referred to in the last preceding proviso shall be issued except with the concurrence of that Government.

(2) If the concurrence of the Government of the State referred to in paragraph (ii) of sub-clause (b) of clause (1) or in the second proviso to sub-clause (d) of that clause be given before the Constituent Assembly for the purpose of framing the Constitution of the State is convened, it shall be placed before such Assembly for such decision as it may take thereon.

(3) Notwithstanding anything in the foregoing provisions of this article, the President may, by public notification, declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify:

Provided that the recommendation of the [clause (2) of Legislative Assembly of the State] shall be necessary before the President issues such a notification.

* See Appendix II.

1. Subs. by C.O. 272, dated the 5-8-2019, s.2. for "Constituent Assembly of the State referred to in clause (2)" (w.e.f. 5-8-2019).

(Part XXI.—Temporary, Transitional and Special Provisions)

¹[371. Special provision with respect to the States of Maharashtra and Gujarat.—³[(1)* * * * *] ^{2***}]

(2) Notwithstanding anything in this Constitution, the President may by order made with respect to ⁴[the State of Maharashtra or Gujarat], provide for any special responsibility of the Governor for—

(a) the establishment of separate development boards for Vidarbha, Marathwada, ⁵[and the rest of Maharashtra or, as the case may be], Saurashtra, Kutch and the rest of Gujarat with the provision that a report on the working of each of these boards will be placed each year before the State Legislative Assembly;

(b) the equitable allocation of funds for developmental expenditure over the said areas, subject to the requirements of the State as a whole; and

(c) an equitable arrangement providing adequate facilities for technical education and vocational training, and adequate opportunities for employment in services under the control of the State Government, in respect of all the said areas, subject to the requirements of the State as a whole.]

⁶[371A. Special provision with respect to the State of Nagaland.—(1) Notwithstanding anything in this Constitution,—

(a) no Act of Parliament in respect of—

(i) religious or social practices of the Nagas;

(ii) Naga customary law and procedure;

(iii) administration of civil and criminal justice involving decisions according to Naga customary law;

(iv) ownership and transfer of land and its resources,

shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides;

1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 22, for art. 371 (w.e.f. 1-11-1956).

2. The words "Andhra Pradesh", omitted by the Constitution (Thirty-second Amendment) Act, 1973, s. 2 (w.e.f. 1-7-1974).

3. Cl. (1) omitted by s. 2, *ibid.* (w.e.f. 1-7-1974).

4. Subs. by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 85, for "the State of Bombay" (w.e.f. 1-5-1960).

5. Subs. by s. 85, *ibid.*, for "the rest of Maharashtra" (w.e.f. 1-5-1960).

6. Art. 371A ins. by the Constitution (Thirteenth Amendment) Act, 1962, s. 2 (w.e.f. 1-12-1963).

THE CONSTITUTION OF INDIA

(Part XXI.—Temporary, Transitional and Special Provisions)

(b) the Governor of Nagaland shall have special responsibility with respect to law and order in the State of Nagaland for so long as in his opinion internal disturbances occurring in the Naga Hills-Tuensang Area immediately before the formation of that State continue therein or in any part thereof and in the discharge of his functions in relation thereto the Governor shall, after consulting the Council of Ministers, exercise his individual judgment as to the action to be taken:

Provided that if any question arises whether any matter is or is not a matter as respects which the Governor is under this sub-clause required to act in the exercise of his individual judgment, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in the exercise of his individual judgment:

Provided further that if the President on receipt of a report from the Governor or otherwise is satisfied that it is no longer necessary for the Governor to have special responsibility with respect to law and order in the State of Nagaland, he may by order direct that the Governor shall cease to have such responsibility with effect from such date as may be specified in the order;

(c) in making his recommendation with respect to any demand for a grant, the Governor of Nagaland shall ensure that any money provided by the Government of India out of the Consolidated Fund of India for any specific service or purpose is included in the demand for a grant relating to that service or purpose and not in any other demand;

(d) as from such date as the Governor of Nagaland may by public notification in this behalf specify, there shall be established a regional council for the Tuensang district consisting of thirty-five members and the Governor shall in his discretion make rules providing for—

(i) the composition of the regional council and the manner in which the members of the regional council shall be chosen:

Provided that the Deputy Commissioner of the Tuensang district shall be the Chairman *ex officio* of the regional council and the Vice-Chairman of the regional council shall be elected by the members thereof from amongst themselves;

(ii) the qualifications for being chosen as, and for being, members of the regional council;

(iii) the term of office of, and the salaries and allowances, if any, to be paid to members of, the regional council;

THE CONSTITUTION OF INDIA

(Part XXI.—Temporary, Transitional and Special Provisions)

(iv) the procedure and conduct of business of the regional council;
 (v) the appointment of officers and staff of the regional council and their conditions of services; and

(vi) any other matter in respect of which it is necessary to make rules for the constitution and proper functioning of the regional council.

(2) Notwithstanding anything in this Constitution, for a period of ten years from the date of the formation of the State of Nagaland or for such further period as the Governor may, on the recommendation of the regional council, by public notification specify in this behalf,—

(a) the administration of the Tuensang district shall be carried on by the Governor;

(b) where any money is provided by the Government of India to the Government of Nagaland to meet the requirements of the State of Nagaland as a whole, the Governor shall in his discretion arrange for an equitable allocation of that money between the Tuensang district and the rest of the State;

(c) no Act of the Legislature of Nagaland shall apply to Tuensang district unless the Governor, on the recommendation of the regional council, by public notification so directs and the Governor in giving such direction with respect to any such Act may direct that the Act shall in its application to the Tuensang district or any part thereof have effect subject to such exceptions or modifications as the Governor may specify on the recommendation of the regional council:

Provided that any direction given under this sub-clause may be given so as to have retrospective effect;

(d) the Governor may make regulations for the peace, progress and good government of the Tuensang district and any regulations so made may repeal or amend with retrospective effect, if necessary, any Act of Parliament or any other law which is for the time being applicable to that district;

(e) (i) one of the members representing the Tuensang district in the Legislative Assembly of Nagaland shall be appointed Minister for Tuensang affairs by the Governor on the advice of the Chief Minister and the Chief Minister in tendering his advice shall act on the recommendation of the majority of the members as aforesaid¹;

1. Paragraph 2 of the Constitution (Removal of Difficulties) Order No. X provides (w.e.f. 1-12-1963) that article 371A of the Constitution of India shall have effect as if the following proviso were added to paragraph (i) of sub-clause (e) of clause (2) thereof, namely:—

"Provided that the Governor may, on the advice of the Chief Minister, appoint any person as Minister for Tuensang affairs to act as such until such time as persons are chosen in accordance with law to fill the seats allocated to the Tuensang district, in the Legislative Assembly of Nagaland.".

(Part XXI.—Temporary, Transitional and Special Provisions)

(ii) the Minister for Tuensang affairs shall deal with, and have direct access to the Governor on, all matters relating to the Tuensang district but he shall keep the Chief Minister informed about the same;

(f) notwithstanding anything in the foregoing provisions of this clause, the final decision on all matters relating to the Tuensang district shall be made by the Governor in his discretion;

(g) in articles 54 and 55 and clause (4) of article 80, references to the elected members of the Legislative Assembly of a State or to each such member shall include references to the members or member of the Legislative Assembly of Nagaland elected by the regional council established under this article;

(h) in article 170—

(i) clause (1) shall, in relation to the Legislative Assembly of Nagaland, have effect as if for the word “sixty”, the word “forty-six” had been substituted;

(ii) in the said clause, the reference to direct election from territorial constituencies in the State shall include election by the members of the regional council established under this article;

(iii) in clauses (2) and (3), references to territorial constituencies shall mean references to territorial constituencies in the Kohima and Mokokchung districts.

(3) If any difficulty arises in giving effect to any of the foregoing provisions of this article, the President may by order do anything (including any adaptation or modification of any other article) which appears to him to be necessary for the purpose of removing that difficulty:

Provided that no such order shall be made after the expiration of three years from the date of the formation of the State of Nagaland.

Explanation.—In this article, the Kohima, Mokokchung and Tuensang districts shall have the same meanings as in the State of Nagaland Act, 1962.]

[371B. Special provision with respect to the State of Assam.]
Notwithstanding anything in this Constitution, the President may, by order made with respect to the State of Assam, provide for the constitution and functions of a committee of the Legislative Assembly of the State consisting of

1. Ins. by the Constitution (Twenty-second Amendment) Act, 1969, s. 4 (w.e.f. 25-9-1969).

THE CONSTITUTION OF INDIA

(Part XXI.—Temporary, Transitional and Special Provisions)

members of that Assembly elected from the tribal areas specified in ¹[Part I] of the table appended to paragraph 20 of the Sixth Schedule and such number of other members of that Assembly as may be specified in the order and for the modifications to be made in the rules of procedure of that Assembly for the constitution and proper functioning of such committee.]

²[**371C. Special provision with respect to the State of Manipur.**—(1) Notwithstanding anything in this Constitution, the President may, by order made with respect to the State of Manipur, provide for the constitution and functions of a committee of the Legislative Assembly of the State consisting of members of that Assembly elected from the Hill Areas of that State, for the modifications to be made in the rules of business of the Government and in the rules of procedure of the Legislative Assembly of the State and for any special responsibility of the Governor in order to secure the proper functioning of such committee.

(2) The Governor shall annually, or whenever so required by the President, make a report to the President regarding the administration of the Hill Areas in the State of Manipur and the executive power of the Union shall extend to the giving of directions to the State as to the administration of the said areas.

Explanation.—In this article, the expression “Hill Areas” means such areas as the President may, by order, declare to be Hill areas.]

³[**371D. Special provisions with respect to ⁴[the State of Andhra Pradesh or the State of Telangana].**—⁵[(1) The President may by order made with respect to the State of Andhra Pradesh or the State of Telangana, provide, having regard to the requirement of each State, for equitable opportunities and facilities for the people belonging to different parts of such State, in the matter of public employment and in the matter of education, and different provisions may be made for various parts of the States.]

-
1. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71, for "Part A" (w.e.f. 21-1-1972).
 2. Art 371C ins. by the Constitution (Twenty-seventh Amendment) Act, 1971, s. 5 (w.e.f. 15-2-1972).
 3. Art 371D and Art 371E ins. by the Constitution (Thirty-second Amendment) Act, 1973, s. 3 (w.e.f. 1-7-1974).
 4. Subs. by the Andhra Pradesh Reorganisation Act, 2014, (6 of 2014), s. 97, for “the State of Andhra Pradesh” (w.e.f. 2-6-2014).
 5. Subs. by s. 97, *ibid*, for cl. (1) (w.e.f. 2-6-2014).

THE CONSTITUTION OF INDIA

(Part XXI.—Temporary, Transitional and Special Provisions)

(2) An order made under clause (1) may, in particular,—

(a) require the State Government to organise any class or classes of posts in a civil service of, or any class or classes of civil posts under, the State into different local cadres for different parts of the State and allot in accordance with such principles and procedure as may be specified in the order the persons holding such posts to the local cadres so organised;

(b) specify any part or parts of the State which shall be regarded as the local area—

(i) for direct recruitment to posts in any local cadre (whether organised in pursuance of an order under this article or constituted otherwise) under the State Government;

(ii) for direct recruitment to posts in any cadre under any local authority within the State; and

(iii) for the purposes of admission to any University within the State or to any other educational institution which is subject to the control of the State Government;

(c) specify the extent to which, the manner in which and the conditions subject to which, preference or reservation shall be given or made—

(i) in the matter of direct recruitment to posts in any such cadre referred to in sub-clause (b) as may be specified in this behalf in the order;

(ii) in the matter of admission to any such University or other educational institution referred to in sub-clause (b) as may be specified in this behalf in the order,

to or in favour of candidates who have resided or studied for any period specified in the order in the local area in respect of such cadre, University or other educational institution, as the case may be.

(3) The President may, by order, provide for the constitution of an Administrative Tribunal for¹[the State of Andhra Pradesh and for the State of Telangana] to exercise such jurisdiction, powers and authority [including any jurisdiction, power and authority which immediately before the commencement of the Constitution (Thirty-second Amendment) Act, 1973, was exercisable by any court (other than the Supreme Court) or by any tribunal or other authority] as may be specified in the order with respect to the following matters, namely:—

1. Subs. by the Andhra Pradesh Reorganisation Act, 2014, (6 of 2014), s. 97, for “the State of Andhra Pradesh” (w.e.f. 2-6-2014).

THE CONSTITUTION OF INDIA

(Part XXI.—Temporary, Transitional and Special Provisions)

(a) appointment, allotment or promotion to such class or classes of posts in any civil service of the State, or to such class or classes of civil posts under the State, or to such class or classes of posts under the control of any local authority within the State, as may be specified in the order;

(b) seniority of persons appointed, allotted or promoted to such class or classes of posts in any civil service of the State, or to such class or classes of civil posts under the State, or to such class or classes of posts under the control of any local authority within the State, as may be specified in the order;

(c) such other conditions of service of persons appointed, allotted or promoted to such class or classes of posts in any civil service of the State or to such class or classes of civil posts under the State or to such class or classes of posts under the control of any local authority within the State, as may be specified in the order.

(4) An order made under clause (3) may—

(a) authorise the Administrative Tribunal to receive representations for the redress of grievances relating to any matter within its jurisdiction as the President may specify in the order and to make such orders thereon as the Administrative Tribunal deems fit;

(b) contain such provisions with respect to the powers and authorities and procedure of the Administrative Tribunal (including provisions with respect to the powers of the Administrative Tribunal to punish for contempt of itself) as the President may deem necessary;

(c) provide for the transfer to the Administrative Tribunal of such classes of proceedings, being proceedings relating to matters within its jurisdiction and pending before any court (other than the Supreme Court) or tribunal or other authority immediately before the commencement of such order, as may be specified in the order;

(d) contain such supplemental, incidental and consequential provisions (including provisions as to fees and as to limitation, evidence or for the application of any law for the time being in force subject to any exceptions or modifications) as the President may deem necessary.

(Part XXI.—Temporary, Transitional and Special Provisions)

***(5)** The Order of the Administrative Tribunal finally disposing of any case shall become effective upon its confirmation by the State Government or on the expiry of three months from the date on which the order is made, whichever is earlier:

Provided that the State Government may, by special order made in writing and for reasons to be specified therein, modify or annul any order of the Administrative Tribunal before it becomes effective and in such a case, the order of the Administrative Tribunal shall have effect only in such modified form or be of no effect, as the case may be.

(6) Every special order made by the State Government under the proviso to clause (5) shall be laid, as soon as may be after it is made, before both Houses of the State Legislature.

(7) The High Court for the State shall not have any powers of superintendence over the Administrative Tribunal and no court (other than the Supreme Court) or tribunal shall exercise any jurisdiction, power or authority in respect of any matter subject to the jurisdiction, power or authority of, or in relation to, the Administrative Tribunal.

(8) If the President is satisfied that the continued existence of the Administrative Tribunal is not necessary, the President may by order abolish the Administrative Tribunal and make such provisions in such order as he may deem fit for the transfer and disposal of cases pending before the Tribunal immediately before such abolition.

(9) Notwithstanding any judgment, decree or order of any court, tribunal or other authority,—

(a) no appointment, posting, promotion or transfer of any person—

(i) made before the 1st day of November, 1956, to any post under the Government of, or any local authority within, the State of Hyderabad as it existed before that date; or

(ii) made before the commencement of the Constitution (Thirty-second Amendment) Act, 1973, to any post under the Government of, or any local or other authority within, the State of Andhra Pradesh; and

(b) no action taken or thing done by or before any person referred to in sub-clause (a),

* In *P. Sambamurthy and Others Vs. State of Andhra Pradesh and Others* (1987) 1 S.C.C. 362, the Supreme Court declared cl. (5) of art. 371D along with the proviso to be unconstitutional and void.

(Part XXI.—Temporary, Transitional and Special Provisions)

shall be deemed to be illegal or void or ever to have become illegal or void merely on the ground that the appointment, posting, promotion or transfer of such person was not made in accordance with any law, then in force, providing for any requirement as to residence within the State of Hyderabad or, as the case may be, within any part of the State of Andhra Pradesh, in respect of such appointment, posting, promotion or transfer.

(10) The provisions of this article and of any order made by the President thereunder shall have effect notwithstanding anything in any other provision of this Constitution or in any other law for the time being in force.

371E. Establishment of Central University in Andhra Pradesh.—Parliament may by law provide for the establishment of a University in the State of Andhra Pradesh.]

¹[371F. Special provisions with respect to the State of Sikkim.]—Notwithstanding anything in this Constitution,—

(a) the Legislative Assembly of the State of Sikkim shall consist of not less than thirty members;

(b) as from the date of commencement of the Constitution (Thirty-sixth Amendment) Act, 1975 (hereafter in this article referred to as the appointed day)—

(i) the Assembly for Sikkim formed as a result of the elections held in Sikkim in April, 1974 with thirty-two members elected in the said elections (hereinafter referred to as the sitting members) shall be deemed to be the Legislative Assembly of the State of Sikkim duly constituted under this Constitution;

(ii) the sitting members shall be deemed to be the members of the Legislative Assembly of the State of Sikkim duly elected under this Constitution; and

(iii) the said Legislative Assembly of the State of Sikkim shall exercise the powers and perform the functions of the Legislative Assembly of a State under this Constitution;

1. Art 371F ins. by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 3 (w.e.f. 26-4-1975).

(Part XXI.—Temporary, Transitional and Special Provisions)

(c) in the case of the Assembly deemed to be the Legislative Assembly of the State of Sikkim under clause (b), the references to the period of ¹[five years], in clause (1) of article 172 shall be construed as references to a period of ²[four years] and the said period of ²[four years] shall be deemed to commence from the appointed day;

(d) until other provisions are made by Parliament by law, there shall be allotted to the State of Sikkim one seat in the House of the People and the State of Sikkim shall form one parliamentary constituency to be called the parliamentary constituency for Sikkim;

(e) the representative of the State of Sikkim in the House of the People in existence on the appointed day shall be elected by the members of the Legislative Assembly of the State of Sikkim;

(f) Parliament may, for the purpose of protecting the rights and interests of the different sections of the population of Sikkim make provision for the number of seats in the Legislative Assembly of the State of Sikkim which may be filled by candidates belonging to such sections and for the delimitation of the assembly constituencies from which candidates belonging to such sections alone may stand for election to the Legislative Assembly of the State of Sikkim;

(g) the Governor of Sikkim shall have special responsibility for peace and for an equitable arrangement for ensuring the social and economic advancement of different sections of the population of Sikkim and in the discharge of his special responsibility under this clause, the Governor of Sikkim shall, subject to such directions as the President may, from time to time, deem fit to issue, act in his discretion;

(h) all property and assets (whether within or outside the territories comprised in the State of Sikkim) which immediately before the appointed day were vested in the Government of Sikkim or in any other authority or in any person for the purposes of the Government of Sikkim shall, as from the appointed day, vest in the Government of the State of Sikkim;

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 56, for "five years" (w.e.f. 3-1-1977) and further subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 43, for "six years" (w.e.f. 6-9-1979).

2. Subs. by s. 56, *ibid.*, for "four years" (w.e.f. 3-1-1977) and further subs. by s. 43, *ibid.*, for "five years", respectively (w.e.f. 6-9-1979).

(Part XXI.—Temporary, Transitional and Special Provisions)

(i) the High Court functioning as such immediately before the appointed day in the territories comprised in the State of Sikkim shall, on and from the appointed day, be deemed to be the High Court for the State of Sikkim;

(j) all courts of civil, criminal and revenue jurisdiction, all authorities and all officers, judicial, executive and ministerial, throughout the territory of the State of Sikkim shall continue on and from the appointed day to exercise their respective functions subject to the provisions of this Constitution;

(k) all laws in force immediately before the appointed day in the territories comprised in the State of Sikkim or any part thereof shall continue to be in force therein until amended or repealed by a competent Legislature or other competent authority;

(l) for the purpose of facilitating the application of any such law as is referred to in clause (k) in relation to the administration of the State of Sikkim and for the purpose of bringing the provisions of any such law into accord with the provisions of this Constitution, the President may, within two years from the appointed day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon, every such law shall have effect subject to the adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law;

(m) neither the Supreme Court nor any other court shall have jurisdiction in respect of any dispute or other matter arising out of any treaty, agreement, engagement or other similar instrument relating to Sikkim which was entered into or executed before the appointed day and to which the Government of India or any of its predecessor Governments was a party, but nothing in this clause shall be construed to derogate from the provisions of article 143;

(n) the President may, by public notification, extend with such restrictions or modifications as he thinks fit to the State of Sikkim any enactment which is in force in a State in India at the date of the notification;

(o) if any difficulty arises in giving effect to any of the foregoing provisions of this article, the President may, by order*, do anything (including any adaptation or modification of any other article) which appears to him to be necessary for the purpose of removing that difficulty:

* See the Constitution (Removal of Difficulties) Order No. XI (C.O. 99).

(Part XXI.—Temporary, Transitional and Special Provisions)

Provided that no such order shall be made after the expiry of two years from the appointed day;

(p) all things done and all actions taken in or in relation to the State of Sikkim or the territories comprised therein during the period commencing on the appointed day and ending immediately before the date on which the Constitution (Thirty-sixth Amendment) Act, 1975, receives the assent of the President shall, in so far as they are in conformity with the provisions of this Constitution as amended by the Constitution (Thirty-sixth Amendment) Act, 1975, be deemed for all purposes to have been validly done or taken under this Constitution as so amended.]

¹[371G. Special provision with respect to the State of Mizoram.—

Notwithstanding anything in this Constitution,—

(a) no Act of Parliament in respect of—

- (i) religious or social practices of the Mizos;
- (ii) Mizo customary law and procedure;
- (iii) administration of civil and criminal justice involving decisions according to Mizo customary law;
- (iv) ownership and transfer of land;

shall apply to the State of Mizoram unless the Legislative Assembly of the State of Mizoram by a resolution so decides:

Provided that nothing in this clause shall apply to any Central Act in force in the Union territory of Mizoram immediately before the commencement of the Constitution (Fifty-third Amendment) Act, 1986;

(b) the Legislative Assembly of the State of Mizoram shall consist of not less than forty members.]

²[371H. Special provision with respect to the State of Arunachal Pradesh.—

Notwithstanding anything in this Constitution,—

(a) the Governor of Arunachal Pradesh shall have special responsibility with respect to law and order in the State of Arunachal Pradesh and in the discharge of his functions in relation thereto, the Governor shall, after consulting the Council of Ministers, exercise his individual judgment as to the action to be taken:

1. Art. 371G ins. by the Constitution (Fifty-third Amendment) Act, 1986.s. 2 (w.e.f. 20-2-1987).

2. Art. 371H ins. by the Constitution (Fifty-fifth Amendment) Act, 1986, s. 2 (w.e.f. 20-2-1987).

THE CONSTITUTION OF INDIA

(Part XXI.—Temporary, Transitional and Special Provisions)

Provided that if any question arises whether any matter is or is not a matter as respects which the Governor is under this clause required to act in the exercise of his individual judgment, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in the exercise of his individual judgment:

Provided further that if the President on receipt of a report from the Governor or otherwise is satisfied that it is no longer necessary for the Governor to have special responsibility with respect to law and order in the State of Arunachal Pradesh, he may by order direct that the Governor shall cease to have such responsibility with effect from such date as may be specified in the order;

(b) the Legislative Assembly of the State of Arunachal Pradesh shall consist of not less than thirty members.]

¹[371-I. Special provision with respect to the State of Goa.]—Notwithstanding anything in this Constitution, the Legislative Assembly of the State of Goa shall consist of not less than thirty members.]

²[371J. Special provisions with respect to State of Karnataka.]—(1) The President may, by order made with respect to the State of Karnataka, provide for any special responsibility of the Governor for—

(a) establishment of a separate development board for Hyderabad-Karnataka region with the provision that a report on the working of the board will be placed each year before the State Legislative Assembly;

(b) equitable allocation of funds for developmental expenditure over the said region, subject to the requirements of the State as a whole; and

(c) equitable opportunities and facilities for the people belonging to the said region, in matters of public employment, education and vocational training, subject to the requirements of the State as a whole.

(2) An order made under sub-clause (c) of clause (1) may provide for—

(a) reservation of a proportion of seats in educational and vocational training institutions in the Hyderabad-Karnataka region for students who belong to that region by birth or by domicile; and

-
1. Art. 371-I ins. by the Constitution (Fifty-sixth Amendment) Act, 1987, s. 2 (w.e.f. 30-5-1987).
 2. Art. 371J ins. by the Constitution (Ninety-eighth Amendment) Act, 2012, s. 2 (w.e.f. 1-10-2013).

(Part XXI.—Temporary, Transitional and Special Provisions)

(b) identification of posts or classes of posts under the State Government and in any body or organisation under the control of the State Government in the Hyderabad-Karnataka region and reservation of a proportion of such posts for persons who belong to that region by birth or by domicile and for appointment thereto by direct recruitment or by promotion or in any other manner as may be specified in the order.]

372. Continuance in force of existing laws and their adaptation.—(1) Notwithstanding the repeal by this Constitution of the enactments referred to in article 395 but subject to the other provisions of this Constitution, all the law in force in the territory of India immediately before the commencement of this Constitution shall continue in force therein until altered or repealed or amended by a competent Legislature or other competent authority.

(2) For the purpose of bringing the provisions of any law in force in the territory of India into accord with the provisions of this Constitution, the President may by order* make such adaptations and modifications of such law, whether by way of repeal or amendment, as may be necessary or expedient, and provide that the law shall, as from such date as may be specified in the order, have effect subject to the adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law.

(3) Nothing in clause (2) shall be deemed—

(a) to empower the President to make any adaptation or modification of any law after the expiration of ¹[three years] from the commencement of this Constitution; or

(b) to prevent any competent Legislature or other competent authority from repealing or amending any law adapted or modified by the President under the said clause.

* See the Adaptation of Laws Order, 1950, dated the 26th January, 1950, Gazette of India, Extraordinary, p. 449, as amended by notification No. S.R.O. 115, dated the 5th June, 1950, Gazette of India, Extraordinary, Part II, Section 3, p. 51, notification No. S.R.O. 870, dated the 4th November, 1950, Gazette of India, Extraordinary, Part II, Section 3, p. 903, notification No. S.R.O. 508, dated the 4th April, 1951, Gazette of India, Extraordinary, Part II, Section 3, p. 287, notification No. S.R.O. 1140B, dated the 2nd July, 1952, Gazette of India, Extraordinary, Part II, Section 3, p. 616/1, and the Adaptation of the Travancore-Cochin Land Acquisition Laws Order, 1952, dated the 20th November, 1952, Gazette of India, Extraordinary, Part II, Section 3, p. 923.

1. Subs. by the Constitution (First Amendment) Act, 1951, s.12 for "two years" (w.e.f. 18-6-1951).

THE CONSTITUTION OF INDIA

(Part XXI.—Temporary, Transitional and Special Provisions)

Explanation I.—The expression “law in force” in this article shall include a law passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that it or parts of it may not be then in operation either at all or in particular areas.

Explanation II.—Any law passed or made by a Legislature or other competent authority in the territory of India which immediately before the commencement of this Constitution had extra-territorial effect as well as effect in the territory of India shall, subject to any such adaptations and modifications as aforesaid, continue to have such extra-territorial effect.

Explanation III.—Nothing in this article shall be construed as continuing any temporary law in force beyond the date fixed for its expiration or the date on which it would have expired if this Constitution had not come into force.

Explanation IV.—An Ordinance promulgated by the Governor of a Province under section 88 of the Government of India Act, 1935, and in force immediately before the commencement of this Constitution shall, unless withdrawn by the Governor of the corresponding State earlier, cease to operate at the expiration of six weeks from the first meeting after such commencement of the Legislative Assembly of that State functioning under clause (1) of article 382, and nothing in this article shall be construed as continuing any such Ordinance in force beyond the said period.

[372A. Power of the President to adapt laws.]—(1) For the purposes of bringing the provisions of any law in force in India or in any part thereof, immediately before the commencement of the Constitution (Seventh Amendment) Act, 1956, into accord with the provisions of this Constitution as amended by that Act, the President may by order* made before the first day of November, 1957, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and provide that the law shall, as from such date as may be specified in the order, have effect subject to the adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law.

(2) Nothing in clause (1) shall be deemed to prevent a competent Legislature or other competent authority from repealing or amending any law adapted or modified by the President under the said clause.]

1. Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 23 (w.e.f. 1-11-1956).

* See the Adaptation of Laws Order of 1956 and 1957.

(Part XXI.—Temporary, Transitional and Special Provisions)

373. Power of President to make order in respect of persons under preventive detention in certain cases.—Until provision is made by Parliament under clause (7) of article 22, or until the expiration of one year from the commencement of this Constitution, whichever is earlier, the said article shall have effect as if for any reference to Parliament in clauses (4) and (7) thereof there were substituted a reference to the President and for any reference to any law made by Parliament in those clauses there were substituted a reference to an order made by the President.

374. Provisions as to Judges of the Federal Court and proceedings pending in the Federal Court or before His Majesty in Council.—(1) The Judges of the Federal Court holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become on such commencement the Judges of the Supreme Court and shall thereupon be entitled to such salaries and allowances and to such rights in respect of leave of absence and pension as are provided for under article 125 in respect of the Judges of the Supreme Court.

(2) All suits, appeals and proceedings, civil or criminal, pending in the Federal Court at the commencement of this Constitution shall stand removed to the Supreme Court, and the Supreme Court shall have jurisdiction to hear and determine the same, and the judgments and orders of the Federal Court delivered or made before the commencement of this Constitution shall have the same force and effect as if they had been delivered or made by the Supreme Court.

(3) Nothing in this Constitution shall operate to invalidate the exercise of jurisdiction by His Majesty in Council to dispose of appeals and petitions from, or in respect of, any judgment, decree or order of any court within the territory of India in so far as the exercise of such jurisdiction is authorised by law, and any order of His Majesty in Council made on any such appeal or petition after the commencement of this Constitution shall for all purposes have effect as if it were an order or decree made by the Supreme Court in the exercise of the jurisdiction conferred on such Court by this Constitution.

(4) On and from the commencement of this Constitution the jurisdiction of the authority functioning as the Privy Council in a State specified in Part B of the First Schedule to entertain and dispose of appeals and petitions from or in respect of any judgment, decree or order of any court within that State shall cease, and all appeals and other proceedings pending before the said authority at such commencement shall be transferred to, and disposed of by, the Supreme Court.

(5) Further provision may be made by Parliament by law to give effect to the provisions of this article.

(Part XXI.—Temporary, Transitional and Special Provisions)

375. Courts, authorities and officers to continue to function subject to the provisions of the Constitution.—All courts of civil, criminal and revenue jurisdiction, all authorities and all officers, judicial, executive and ministerial, throughout the territory of India, shall continue to exercise their respective functions subject to the provisions of this Constitution.

376. Provisions as to Judges of High Courts.—(1) Notwithstanding anything in clause (2) of article 217, the Judges of a High Court in any Province holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become on such commencement the Judges of the High Court in the corresponding State, and shall thereupon be entitled to such salaries and allowances and to such rights in respect of leave of absence and pension as are provided for under article 221 in respect of the Judges of such High Court. ¹[Any such Judge shall, notwithstanding that he is not a citizen of India, be eligible for appointment as Chief Justice of such High Court, or as Chief Justice or other Judge of any other High Court.]

(2) The Judges of a High Court in any Indian State corresponding to any State specified in Part B of the First Schedule holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become on such commencement the Judges of the High Court in the State so specified and shall, notwithstanding anything in clauses (1) and (2) of article 217 but subject to the proviso to clause (1) of that article, continue to hold office until the expiration of such period as the President may by order determine.

(3) In this article, the expression “Judge” does not include an acting Judge or an additional Judge.

377. Provisions as to Comptroller and Auditor-General of India.—The Auditor-General of India holding office immediately before the commencement of this Constitution shall, unless he has elected otherwise, become on such commencement the Comptroller and Auditor-General of India and shall thereupon be entitled to such salaries and to such rights in respect of leave of absence and pension as are provided for under clause (3) of article 148 in respect of the Comptroller and Auditor-General of India and be entitled to continue to hold office until the expiration of his term of office as determined under the provisions which were applicable to him immediately before such commencement.

1. Added by the Constitution (First Amendment) Act, 1951, s. 13 (w.e.f. 18-6-1951).

(Part XXI.—Temporary, Transitional and Special Provisions)

378. Provisions as to Public Service Commissions.—(1) The members of the Public Service Commission for the Dominion of India holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become on such commencement the members of the Public Service Commission for the Union and shall, notwithstanding anything in clauses (1) and (2) of article 316 but subject to the proviso to clause (2) of that article, continue to hold office until the expiration of their term of office as determined under the rules which were applicable immediately before such commencement to such members.

(2) The Members of a Public Service Commission of a Province or of a Public Service Commission serving the needs of a group of Provinces holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become on such commencement the members of the Public Service Commission for the corresponding State or the members of the Joint State Public Service Commission serving the needs of the corresponding States, as the case may be, and shall, notwithstanding anything in clauses (1) and (2) of article 316 but subject to the proviso to clause (2) of that article, continue to hold office until the expiration of their term of office as determined under the rules which were applicable immediately before such commencement to such members.

¹[**378A. Special provision as to duration of Andhra Pradesh Legislative Assembly.**—Notwithstanding anything contained in article 172, the Legislative Assembly of the State of Andhra Pradesh as constituted under the provisions of sections 28 and 29 of the States Reorganisation Act, 1956, shall, unless sooner dissolved, continue for a period of five years from the date referred to in the said section 29 and no longer and the expiration of the said period shall operate as a dissolution of that Legislative Assembly.]

379. [Provisions as to provisional Parliament and the Speaker and Deputy Speaker thereof.]—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

380. [Provision as to President.]—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

381. [Council of Ministers of the President.]—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

382. [Provisions as to provisional Legislatures for States in Part A of the First Schedule.]—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

383. [Provision as to Governors of Provinces.]—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

1. Art 378A ins. by the Constitution (Seventh Amendment) Act, 1956, s. 24 (w.e.f. 1-11-1956).

THE CONSTITUTION OF INDIA

(Part XXI.—Temporary, Transitional and Special Provisions)

384. [*Council of Ministers of the Governors*.]—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

385. [*Provision as to provisional Legislatures in States in Part B of the First Schedule*.]—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

386. [*Council of Ministers for States in Part B of the First Schedule*.]—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

387. [*Special provision as to determination of population for the purposes of certain elections*.]—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

388. [*Provisions as to the filling of casual vacancies in the provisional Parliament and provisional Legislatures of the States*.]—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

389. [*Provision as to Bills pending in the Dominion Legislatures and in the Legislatures of Provinces and Indian States*.]—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

390. [*Money received or raised or expenditure incurred between the commencement of the Constitution and the 31st day of March, 1950*.]—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

391. [*Power of the President to amend the First and Fourth Schedules in certain contingencies*.]—Omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

392. Power of the President to remove difficulties.—(1) The President may, for the purpose of removing any difficulties, particularly in relation to the transition from the provisions of the Government of India Act, 1935, to the provisions of this Constitution, by order direct that this Constitution shall, during such period as may be specified in the order, have effect subject to such adaptations, whether by way of modification, addition or omission, as he may deem to be necessary or expedient:

Provided that no such order shall be made after the first meeting of Parliament duly constituted under Chapter II of Part V.

(2) Every order made under clause (1) shall be laid before Parliament.

(3) The powers conferred on the President by this article, by article 324, by clause (3) of article 367 and by article 391 shall, before the commencement of this Constitution, be exercisable by the Governor-General of the Dominion of India.

PART XXII

SHORT TITLE, COMMENCEMENT,¹[AUTHORITATIVE TEXT IN HINDI] AND REPEALS

393. Short title.—This Constitution may be called the Constitution of India.

394. Commencement.—This article and articles 5, 6, 7, 8, 9, 60, 324, 366, 367, 379, 380, 388, 391, 392 and 393 shall come into force at once, and the remaining provisions of this Constitution shall come into force on the twenty-sixth day of January, 1950, which day is referred to in this Constitution as the commencement of this Constitution.

²[394A. Authoritative text in the Hindi language.]—(1) The President shall cause to be published under his authority,—

(a) the translation of this Constitution in the Hindi language, signed by the members of the Constituent Assembly, with such modifications as may be necessary to bring it in conformity with the language, style and terminology adopted in the authoritative texts of Central Acts in the Hindi language, and incorporating therein all the amendments of this Constitution made before such publication; and

(b) the translation in the Hindi language of every amendment of this Constitution made in the English language.

(2) The translation of this Constitution and of every amendment thereof published under clause (1) shall be construed to have the same meaning as the original thereof and if any difficulty arises in so construing any part of such translation, the President shall cause the same to be revised suitably.

(3) The translation of this Constitution and of every amendment thereof published under this article shall be deemed to be, for all purposes, the authoritative text thereof in the Hindi language.]

395. Repeals.— The Indian Independence Act, 1947, and the Government of India Act, 1935, together with all enactments amending or supplementing the latter Act, but not including the Abolition of Privy Council Jurisdiction Act, 1949, are hereby repealed.

1. Ins. by the Constitution (Fifty-eighth Amendment) Act, 1987, s. 2 (w.e.f. 9-12-1987).

2. Art 394A, Ins. by s. 3, *ibid.* (w.e.f. 9-12-1987).

¹[FIRST SCHEDULE

[Articles 1 and 4]

I. THE STATES

<i>Name</i>	<i>Territories</i>
1. Andhra Pradesh	² [The territories specified in sub-section (<i>I</i>) of section 3 of the Andhra State Act, 1953, sub-section (<i>I</i>) of section 3 of the States Reorganisation Act, 1956, the First Schedule to the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959, and the Schedule to the Andhra Pradesh and Mysore (Transfer of Territory) Act, 1968, but excluding the territories specified in the Second Schedule to the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959] ³ [and the territories specified in section 3 of the Andhra Pradesh Reorganisation Act, 2014].
2. Assam	The territories which immediately before the commencement of this Constitution were comprised in the Province of Assam, the Khasi States and the Assam Tribal Areas, but excluding the territories specified in the Schedule to the Assam (Alteration of Boundaries) Act, 1951 ⁴ [and the territories specified in sub-section (<i>I</i>) of section 3 of the State of Nagaland Act, 1962] ⁵ [and the territories specified in sections 5, 6 and 7 of the North-Eastern Areas (Reorganisation) Act, 1971] ⁶ [and the territories referred to in Part I of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015, notwithstanding anything contained in clause (a) of section 3 of the Constitution (Ninth Amendment) Act, 1960, so far as it relates to the territories referred to in Part I of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015.]

-
1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 2, for the First Sch. (w.e.f. 1-11-1956).
 2. Subs. by the Andhra Pradesh and Mysore (Transfer of Territory) Act, 1968 (36 of 1968), s. 4, for the former entry (w.e.f. 1-10-1968).
 3. Ins. by the Andhra Pradesh Reorganisation Act, 2014 (6 of 2014), s. 10 (w.e.f. 2-6-2014).
 4. Added by the State of Nagaland Act, 1962 (27 of 1962), s. 4 (w.e.f. 1-12-1963).
 5. Added by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 9 (w.e.f. 21-1-1972).
 6. Added by the Constitution (One Hundredth Amendment) Act, 2015, s. 3 (w.e.f. 31-7-2015). For the text of the Act, see Appendix I.

<i>Name</i>	<i>Territories</i>
3. Bihar	¹ [The territories which immediately before the commencement of this Constitution were either comprised in the Province of Bihar or were being administered as if they formed part of that Province and the territories specified in clause (a) of sub-section (1) of section 3 of the Bihar and Uttar Pradesh (Alteration of Boundaries) Act, 1968, but excluding the territories specified in sub-section (1) of section 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956, and the territories specified in clause (b) of sub-section (1) of section 3 of the first mentioned Act ² [and the territories specified in section 3 of the Bihar Reorganisation Act, 2000].]
³ [4. Gujarat	The territories referred to in sub-section (1) of section 3 of the Bombay Reorganisation Act, 1960.]
5. Kerala	The territories specified in sub-section (1) of section 5 of the States Reorganisation Act, 1956.
6. Madhya Pradesh	The territories specified in sub-section (1) of section 9 of the States Reorganisation Act, 1956 ⁴ [and the First Schedule to the Rajasthan and Madhya Pradesh (Transfer of Territories) Act, 1959], ⁵ [but excluding the territories specified in section 3 of the Madhya Pradesh Reorganisation Act, 2000].

1. Subs. by the Bihar and Uttar Pradesh (Alteration of Boundaries) Act, 1968 (24 of 1968), s. 4, for the former entry (w.e.f. 10-6-1970).
2. Added by the Bihar Reorganisation Act, 2000 (30 of 2000), s. 5 (w.e.f. 15-11- 2000).
3. Subs. by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 4 (w.e.f. 1-5-1960).
4. Ins. by the Rajasthan and Madhya Pradesh (Transfer of Territories) Act, 1959 (47 of 1959), s. 4 (w.e.f. 1-10-1959).
5. Added by the Madhya Pradesh Reorganisation Act, 2000 (28 of 2000), s. 5 (w.e.f. 1-11-2000).

<i>Name</i>	<i>Territories</i>
¹ [7. Tamil Nadu]	The territories which immediately before the commencement of this Constitution were either comprised in the Province of Madras or were being administered as if they formed part of that Province and the territories specified in section 4 of the States Reorganisation Act, 1956, ² [and the Second Schedule to the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959], but excluding the territories specified in sub-section (1) of section 3 and sub-section (1) of section 4 of the Andhra State Act, 1953 and ³ [the territories specified in clause (b) of sub-section (1) of section 5, section 6 and clause (d) of sub-section (1) of section 7 of the States Reorganisation Act, 1956 and the territories specified in the First Schedule to the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959.]
⁴ [8. Maharashtra]	The territories specified in sub-section (1) of section 8 of the States Reorganisation Act, 1956, but excluding the territories referred to in sub-section (1) of section 3 of the Bombay Reorganisation Act, 1960.]
⁵ [⁶ [9.] Karnataka]	The territories specified in sub-section (1) of section 7 of the States Reorganisation Act, 1956 ⁷ [but excluding the territory specified in the Schedule to the Andhra Pradesh and Mysore (Transfer of Territory) Act, 1968.]

1. Subs. by the Madras State (Alteration of Name) Act, 1968 (53 of 1968), s. 5, for "7. Madras" (w.e.f. 14-1-1969).
2. Ins. by the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959 (56 of 1959), s. 6 (w.e.f. 1-4-1960).
3. Subs. by s. 6, *ibid.*, for certain words (w.e.f. 1-4-1960).
4. Ins. by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 4 (w.e.f. 1-5-1960).
5. Subs. by the Mysore State (Alteration of Name) Act, 1973 (31 of 1973), s. 5, for "9. Mysore" (w.e.f. 1-11-1973).
6. Entries 8 to 14 renumbered as entries 9 to 15 by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 4 (w.e.f. 1-5-1960).
7. Ins. by the Andhra Pradesh and Mysore (Transfer of Territory) Act, 1968 (36 of 1968), s. 4 (w.e.f. 1-10-1968).

<i>Name</i>	<i>Territories</i>
¹ [10.] ² [Odisha]	The territories which immediately before the commencement of this Constitution were either comprised in the Province of Orissa or were being administered as if they formed part of that Province.
¹ [11.] Punjab	The territories specified in section 11 of the States Reorganisation Act, 1956 ³ [and the territories referred to in Part II of the First Schedule to the Acquired Territories (Merger) Act, 1960] ⁴ [but excluding the territories referred to in Part II of the First Schedule to the Constitution (Ninth Amendment) Act, 1960] ⁵ [and the territories specified in sub-section (1) of section 3, section 4 and sub-section (1) of section 5 of the Punjab Reorganisation Act, 1966.]
¹ [12.] Rajasthan	The territories specified in section 10 of the States Reorganisation Act, 1956 ⁶ [but excluding the territories specified in the First Schedule to the Rajasthan and Madhya Pradesh (Transfer of Territories) Act, 1959].

1. Entries 8 to 14 renumbered as entries 9 to 15 by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 4 (w.e.f. 1-5-1960).
2. Subs. by the Orissa (Alteration of Name) Act, 2011 (15 of 2011), s. 6, for "Orissa" (w.e.f. 1-11-2011).
3. Ins. by the Acquired Territories (Merger) Act, 1960 (64 of 1960), s. 4 (w.e.f. 17-1-1961).
4. Added by the Constitution (Ninth Amendment) Act, 1960, s. 3 (w.e.f. 17-1-1961).
5. Added by the Punjab Reorganisation Act, 1966 (31 of 1966), s. 7 (w.e.f. 1-11-1966).
6. Ins. by the Rajasthan and Madhya Pradesh (Transfer of Territories) Act, 1959 (47 of 1959), s. 4 (w.e.f. 1-10-1959).

<i>Name</i>	<i>Territories</i>
¹ [13.] Uttar Pradesh	² [The territories which immediately before the commencement of this Constitution were either comprised in the Province known as the United Provinces or were being administered as if they formed part of that Province, the territories specified in clause (b) of sub-section (1) of section 3 of the Bihar and Uttar Pradesh (Alteration of Boundaries) Act, 1968, and the territories specified in clause (b) of sub-section (1) of section 4 of the Haryana and Uttar Pradesh (Alteration of Boundaries) Act, 1979, but excluding the territories specified in clause (a) of sub-section (1) of section 3 of the Bihar and Uttar Pradesh (Alteration of Boundaries) Act, 1968, ³ [and the territories specified in section 3 of the Uttar Pradesh Reorganisation Act, 2000] and the territories specified in clause (a) of sub-section (1) of section 4 of the Haryana and Uttar Pradesh (Alteration of Boundaries) Act, 1979.]
¹ [14.] West Bengal	The territories which immediately before the commencement of this Constitution were either comprised in the Province of West Bengal or were being administered as if they formed part of that Province and the territory of Chandernagore as defined in clause (c) of section 2 of the Chandernagore (Merger) Act, 1954 and also the territories specified in sub-section (1) of section 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956 ⁴ [and also the territories referred to in Part III of the First Schedule but excluding the territories referred to in Part III of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015, notwithstanding anything contained in clause (c) of section 3 of the Constitution (Ninth Amendment) Act, 1960, so far as it relates to the territories referred to in Part III of the First Schedule and the territories referred to in Part III of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015.]

1. Entries 8 to 14 renumbered as entries 9 to 15 by the the Bombay Reorganisation Act, 1960 (11 of 1960), s. 4 (w.e.f. 1-5-1960).
2. Subs. by the Haryana and Uttar Pradesh (Alteration of Boundaries) Act, 1979 (31 of 1979), s. 5, for the entry against "13. Uttar Pradesh" (w.e.f. 15-9-1983).
3. Ins. by the Uttar Pradesh Reorganisation Act, 2000 (29 of 2000), s. 5 (w.e.f. 9-11-2000).
4. Added by the Constitution (One Hundredth Amendment) Act, 2015, s. 3 (w.e.f. 31-7-2015). For the text of the Act, see Appendix I.

<i>Name</i>	<i>Territories</i>		
¹ [² [**]	*	*	*]]
³ [⁴ [15.] Nagaland	The territories specified in sub-section (1) of section 3 of the State of Nagaland Act, 1962.]		
³ [⁵ [16.] Haryana	⁶ [The territories specified in sub-section (1) of section 3 of the Punjab Reorganisation Act, 1966 and the territories specified in clause (a) of sub-section (1) of section 4 of the Haryana and Uttar Pradesh (Alteration of Boundaries) Act, 1979, but excluding the territories specified in clause (v) of sub-section (1) of section 4 of that Act.]]		
³ [⁷ [17.] Himachal Pradesh	The territories which immediately before the commencement of this Constitution were being administered as if they were Chief Commissioners' Provinces under the names of Himachal Pradesh and Bilaspur and the territories specified in sub-section (1) of section 5 of the Punjab Reorganisation Act, 1966.]		
³ [⁸ [18.] Manipur	The territory which immediately before the commencement of this Constitution was being administered as if it were a Chief Commissioner's Province under the name of Manipur.]		

-
1. **Entry 15 relating to Jammu and Kashmir deleted by the Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019), s. 6 (w.e.f. 31-10-2019).
 2. Entries 8 to 14 renumbered as 9 to 15 by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 4 (w.e.f. 1-5-1960).
 3. Entries 16 to 29 renumbered as entries 15 to 28 by the Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019), s. 6 (w.e.f. 31-10-2019).
 4. Ins. by the State of Nagaland Act, 1962 (27 of 1962), s. 4 (w.e.f. 1-12-1963).
 5. Ins. by the Punjab Reorganisation Act, 1966 (31 of 1966), s. 7 (w.e.f. 1-11-1966) and the entry therein subsequently amended by the Haryana and Uttar Pradesh (Alteration of Boundaries) Act, 1979 (31 of 1979), s. 5 (w.e.f. 15-9-1983).
 6. Subs. by the Haryana and Uttar Pradesh (Alteration of Boundaries) Act, 1979 (31 of 1979), s. 5, for the entry against "17. Haryana" (w.e.f. 15-9-1983).
 7. Ins. by the State of Himachal Pradesh Act, 1970 (53 of 1970), s. 4 (w.e.f. 25-1-1971).
 8. Ins. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 9 (w.e.f. 21-1-1972).

<i>Name</i>	<i>Territories</i>
¹ [19.] Tripura	The territory which immediately before the commencement of this Constitution was being administered as if it were a Chief Commissioner's Province under the name of Tripura ² [and the territories referred to in Part II of the First Schedule to the Constitution (One Hundredth Amendment) Act, 2015, notwithstanding anything contained in clause (d) of section 3 of the Constitution (Ninth Amendment) Act, 1960, so far as it relates to the territories referred to in Part II of the First Schedule to the Constitution (One Hundredth Amendment) Act, 2015.]
¹ [20.] Meghalaya	The territories specified in section 5 of the North-Eastern Areas (Reorganisation) Act, 1971] ² [and the territories referred to in Part I of the First Schedule but excluding the territories referred to in Part II of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015.]
¹ [³ [21.] Sikkim	The territories which immediately before the commencement of the Constitution (Thirty-sixth Amendment) Act, 1975, were comprised in Sikkim.]
¹ [⁴ [22.] Mizoram	The territories specified in section 6 of the North-Eastern Areas (Reorganisation) Act, 1971.]
¹ [⁵ [23.] Arunachal Pradesh	The territories specified in section 7 of the North-Eastern Areas (Reorganisation) Act, 1971.]
¹ [⁶ [24.] Goa	The territories specified in section 3 of the Goa, Daman and Diu Reorganisation Act, 1987.]

1. Entries 16 to 29 renumbered as entries 15 to 28 by the Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019), s. 6 (w.e.f. 31-10-2019).
2. Added by the Constitution (One Hundredth Amendment) Act, 2015, s. 3 (w.e.f. 31-7-2015). For the text of the Act, see Appendix I.
3. Ins. by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 2 (w.e.f. 26-4-1975).
4. Ins. by the State of Mizoram Act, 1986 (34 of 1986), s. 4 (w.e.f. 20-2-1987).
5. Ins. by the State of Arunachal Pradesh Act, 1986 (69 of 1986), s. 4 (w.e.f. 20-2-1987).
6. Ins. by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), s. 5 (w.e.f. 30-5-1987).

<i>Name</i>	<i>Territories</i>
¹ [² [25.] Chhattisgarh	The territories specified in section 3 of the Madhya Pradesh Reorganisation Act, 2000.]
¹ [³ [26.] ⁴ [Uttarakhand]	The territories specified in section 3 of the Uttar Pradesh Reorganisation Act, 2000.]
¹ [⁵ [27.] Jharkhand	The territories specified in section 3 of the Bihar Reorganisation Act, 2000.]
¹ [⁶ [28.] Telangana	The territories specified in section 3 of the Andhra Pradesh Reorganisation Act, 2014.]
II. THE UNION TERRITORIES	
<i>Name</i>	<i>Extent</i>
1. Delhi	The territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioner's Province of Delhi.
⁷ [*]	* * * *
⁸ [2.] The Andaman and Nicobar Islands	The territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioner's Province of the Andaman and Nicobar Islands.

1. Entries 16 to 29 renumbered as entries 15 to 28 by the Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019), s. 6 (w.e.f. 31-10-2019).
2. Added by the Madhya Pradesh Reorganisation Act, 2000 (28 of 2000), s. 5 (w.e.f. 1-11-2000).
3. Ins. by the Uttar Pradesh Reorganisation Act, 2000 (29 of 2000), s. 5 (w.e.f. 9-11-2000).
4. Subs. by the Uttarakhand (Alteration of Name) Act, 2006 (52 of 2006), s. 4, for the word "Uttaranchal" (w.e.f. 1-1-2007).
5. Added by the Bihar Reorganisation Act, 2000 (30 of 2000), s. 5 (w.e.f. 15-11-2000).
6. Ins. by the Andhra Pradesh Reorganisation Act, 2014, s. 10 (w.e.f. 2-6-2014).
7. Entry 2 relating to "Himachal Pradesh" omitted and entries 3 to 10 renumbered as entries 2 to 9 respectively by the State of Himachal Pradesh Act, 1970 (53 of 1970), s. 4 (w.e.f. 25-1-1971) and subsequently entries relating to Manipur and Tripura (i.e. entries 2 and 3) omitted by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971) s. 9 (w.e.f. 21-1-1972).
8. Entries 4 to 9 renumbered as entries 2 to 7 by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 9 (w.e.f. 21-1-1972).

<i>Name</i>	<i>Territories</i>
¹ [3.] ² [Lakshadweep]	The territory specified in section 6 of the States Reorganisation Act, 1956.
³ [¹ [4.] Dadra and Nagar Haveli and Daman and Diu	The territory which immediately before the eleventh day of August, 1961 was comprised in Free Dadra and Nagar Haveli and the territories specified in section 4 of the Goa, Daman and Diu Reorganisation Act, 1987.]
⁴ [¹ [*] ³ [* * * *
⁵ [¹ [6.] ⁶ [Puducherry]	The territories which immediately before the sixteenth day of August, 1962, were comprised in the French Establishments in India known as Pondicherry, Karikal, Mahe and Yanam.]
⁷ [¹ [7.] Chandigarh	The territories specified in section 4 of the Punjab Reorganisation Act, 1966.]

1. Entries 4 to 9 renumbered as entries 2 to 7 (respectively) by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 9 (w.e.f. 21-1-1972).
2. Subs. by the Laccadive, Minicoy and Amindivi Islands (Alteration of Name) Act, 1973 (34 of 1973), s. 5, for "The Laccadive, Minicoy and Amindivi Islands" (w.e.f. 1-11-1973).
3. Entry 4 relating to Dadra and Nagar Haveli was ins. by the Constitution (Tenth Amendment) Act, 1961, s.2 (w.e.f. 11-8-1961). And subsequently subs. by the Dadra and Nagar Haveli Daman and Diu (Merger of Union territories) Act, 2019 (44 of 2019), s. 5 for entries 4 and 5 (w.e.f. 19-12-2019).
4. Subs. by the Goa, Daman and Diu (Reorganisation) Act, 1987 (18 of 1987), s. 5, for entry 5 (w.e.f. 30-5-1987).
5. Ins. by the Constitution (Fourteenth Amendment) Act, 1962, s. 3 (with retrospective effect).
6. Subs. by the Pondicherry (Alteration of Name) Act, 2006 (44 of 2006), s. 5 for "Pondicherry" (w.e.f. 1-10-2006).
7. Ins. by the Punjab Reorganisation Act, 1966 (31 of 1966), s. 7 (w.e.f. 1-11-1966).

<i>Name</i>	<i>Territories</i>			
¹ [*	*	*	*	*]
¹ [*	*	*	*	*]
² [8. Jammu and Kashmir	The territories specified in section 4 of the Jammu and Kashmir Reorganisation Act, 2019.			
9. Ladakh	The territories specified in section 3 of the Jammu and Kashmir Reorganisation Act, 2019.]			

1. Entry 8 relating to Mizoram omitted and entry 9 relating to Arunachal Pradesh renumbered as entry 8 by the State of Mizoram Act, 1986 (34 of 1986), s. 4 (w.e.f. 20-2-1987) and entry 8 relating to Arunachal Pradesh omitted by the State of Arunachal Pradesh Act, 1986 (69 of 1986) s. 4 (w.e.f. 15-4-1987).
2. Ins. by the Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019) s. 6 (w.e.f. 31-10-2019).

SECOND SCHEDULE

[Articles 59(3), 65(3), 75(6), 97, 125, 148(3), 158(3), 164 (5), 186 and 221]

PART A

PROVISIONS AS TO THE PRESIDENT AND THE GOVERNORS OF STATES ^{1*}**

1. There shall be paid to the President and to the Governors of the States ^{1***} the following emoluments per mensem, that is to say:—

The President	10,000 rupees*.
The Governor of a State	5,500 rupees**.

2. There shall also be paid to the President and to the Governors of the States ^{2***} such allowances as were payable respectively to the Governor-General of the Dominion of India and to the Governors of the corresponding Provinces immediately before the commencement of this Constitution.

3. The President and the Governors of ³[the States] throughout their respective terms of office shall be entitled to the same privileges to which the Governor-General and the Governors of the corresponding Provinces were respectively entitled immediately before the commencement of this Constitution.

4. While the Vice-President or any other person is discharging the functions of, or is acting as, President, or any person is discharging the functions of the Governor, he shall be entitled to the same emoluments, allowances and privileges as the President or the Governor whose functions he discharges or for whom he acts, as the case may be.

4* * * *

1. The words and letter "specified in Part A of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

* Now five lakh rupees, *vide* the Finance Act, 2018 (13 of 2018), s. 137. (w.e.f. 1-1-2016).

** Now three lakh fifty thousand rupees, by s. 161, *ibid.*, (w.e.f. 1-1-2016).

2. The words "so specified" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

3. Subs. by s. 29 and Sch., *ibid.*, for "such states" (w.e.f. 1-11-1956).

4. Part B omitted by s. 29 and Sch., *ibid.* (w.e.f. 1-11-1956).

PART C

PROVISIONS AS TO THE SPEAKER AND THE DEPUTY SPEAKER OF THE HOUSE
 OF THE PEOPLE AND THE CHAIRMAN AND THE DEPUTY CHAIRMAN
 OF THE COUNCIL OF STATES AND THE SPEAKER AND THE
 DEPUTY SPEAKER OF THE LEGISLATIVE ASSEMBLY ^{1***}
 AND THE CHAIRMAN AND THE DEPUTY CHAIRMAN
 OF THE LEGISLATIVE COUNCIL OF ²[A STATE]

7. There shall be paid to the Speaker of the House of the People and the Chairman of the Council of States such salaries and allowances as were payable to the Speaker of the Constituent Assembly of the Dominion of India immediately before the commencement of this Constitution, and there shall be paid to the Deputy Speaker of the House of the People and to the Deputy Chairman of the Council of States such salaries and allowances as were payable to the Deputy Speaker of the Constituent Assembly of the Dominion of India immediately before such commencement.

8. There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly ^{3***} and to the Chairman and the Deputy Chairman of the Legislative Council of ⁴[a State] such salaries and allowances as were payable respectively to the Speaker and the Deputy Speaker of the Legislative Assembly and the President and the Deputy President of the Legislative Council of the corresponding Province immediately before the commencement of this Constitution and, where the corresponding Province had no Legislative Council immediately before such commencement, there shall be paid to the Chairman and the Deputy Chairman of the Legislative Council of the State such salaries and allowances as the Governor of the State may determine.

-
1. The words and letter "OF A STATE IN PART A OF THE FIRST SCHEDULE" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).
 2. Subs. by s. 29 and Sch., *ibid.*, for "ANY SUCH STATE." (w.e.f. 1-11-1956).
 3. The words and letter "of a State specified in Part A of the First Schedule" omitted by s. 29 and Sch., *ibid.* (w.e.f. 1-11-1956).
 4. Subs. by s. 29 and Sch., *ibid.*, for "such State" (w.e.f. 1-11-1956).

(Second Schedule)

PART D**PROVISIONS AS TO THE JUDGES OF THE SUPREME COURT AND OF THE HIGH COURTS^{1***}**

9. [(1) There shall be paid to the Judges of the Supreme Court, in respect of time spent on actual service, salary at the following rates per mensem, that is to say:—

The Chief Justice ..	² [10,000 rupees.]*
Any other Judge ..	³ [9,000 rupees.]**

Provided that if a Judge of the Supreme Court at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or any of its predecessor Governments or under the Government of a State or any of its predecessor Governments, his salary in respect of service in the Supreme Court⁴ [shall be reduced—

(a) by the amount of that pension; and

(b) if he has, before such appointment, received in lieu of a portion of the pension due to him in respect of such previous service the commuted value thereof, by the amount of that portion of the pension; and

(c) if he has, before such appointment, received a retirement gratuity in respect of such previous service, by the pension equivalent of that gratuity.]

(2) Every Judge of the Supreme Court shall be entitled without payment of rent to the use of an official residence.

(3) Nothing in sub-paragraph (2) of this paragraph shall apply to a Judge who, immediately before the commencement of this Constitution,—

-
1. The words and letter "IN STATES IN PART A OF THE FIRST SCHEDULE" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 25(a) (w.e.f. 1-11-1956).
 2. Subs. by the Constitution (Fifty-fourth Amendment) Act, 1986, s. 4, for "5,000 rupees to 10,000 rupees" (w.e.f. 1-4-1986).

* Now two lakh eighty thousand rupees, *vide* the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2018 (10 of 2018), s. 6 (w.e.f. 1-1-2016).

3. Subs. by the Constitution (Fifty-fourth Amendment) Act, 1986, s. 4, for "4,000 rupees" (w.e.f. 1-4-1986).

** Now two lakh fifty thousand rupees, *vide* the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2018 (10 of 2018), s. 6 (w.e.f. 1-1-2016).

4. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 25(b), for " shall be reduced by the amount of that pension" (w.e.f. 1-11-1956).

(Second Schedule)

(a) was holding office as the Chief Justice of the Federal Court and has become on such commencement the Chief Justice of the Supreme Court under clause (1) of article 374; or

(b) was holding office as any other Judge of the Federal Court and has on such commencement become a Judge (other than the Chief Justice) of the Supreme Court under the said clause,

during the period he holds office as such Chief Justice or other Judge, and every Judge who so becomes the Chief Justice or other Judge of the Supreme Court shall, in respect of time spent on actual service as such Chief Justice or other Judge, as the case may be, be entitled to receive in addition to the salary specified in sub-paragraph (1) of this paragraph as special pay an amount equivalent to the difference between the salary so specified and the salary which he was drawing immediately before such commencement.

(4) Every Judge of the Supreme Court shall receive such reasonable allowances to reimburse him for expenses incurred in travelling on duty within the territory of India and shall be afforded such reasonable facilities in connection with travelling as the President may from time to time prescribe.

(5) The rights in respect of leave of absence (including leave allowances) and pension of the Judges of the Supreme Court shall be governed by the provisions which, immediately before the commencement of this Constitution, were applicable to the Judges of the Federal Court.

10. (1) ¹[There shall be paid to the Judges of High Courts, in respect of time spent on actual service, salary at the following rates per mensem, that is to say,—

The Chief Justice ..	² [9,000 rupees]*
Any other Judge ..	³ [8,000 rupees]:**

1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 25(c), (i), for sub-paragraph (1) (w.e.f. 1-11-1956).

2. Subs. by the Constitution (Fifty-fourth Amendment) Act, 1986, s. 4, for "4,000 rupees" (w.e.f. 1-4-1986).

* Now two lakh fifty thousand rupees, *vide* the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2018 (10 of 2018), s. 2 (w.e.f. 1-1-2016).

3. Subs. by the Constitution (Fifty-fourth Amendment) Act, 1986, s. 4, for "3,500 rupees" (w.e.f. 1-4-1986).

** Now two lakh twenty-five thousand rupees, *vide* the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2018 (10 of 2018), s. 2 (w.e.f. 1-1-2016).

Provided that if a Judge of a High Court at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or any of its predecessor Governments or under the Government of a State or any of its predecessor Governments, his salary in respect of service in the High Court shall be reduced—

(a) by the amount of that pension; and

(b) if he has, before such appointment, received in lieu of a portion of the pension due to him in respect of such previous service the commuted value thereof, by the amount of that portion of the pension; and

(c) if he has, before such appointment, received a retirement gratuity in respect of such previous service, by the pension equivalent of that gratuity.]

(2) Every person who immediately before the commencement of this Constitution—

(a) was holding office as the Chief Justice of a High Court in any Province and has on such commencement become the Chief Justice of the High Court in the corresponding State under clause (1) of article 376; or

(b) was holding office as any other Judge of a High Court in any Province and has on such commencement become a Judge (other than the Chief Justice) of the High Court in the corresponding State under the said clause,

shall, if he was immediately before such commencement drawing a salary at a rate higher than that specified in sub-paragraph (1) of this paragraph, be entitled to receive in respect of time spent on actual service as such Chief Justice or other Judge, as the case may be, in addition to the salary specified in the said sub-paragraph as special pay an amount equivalent to the difference between the salary so specified and the salary which he was drawing immediately before such commencement.

¹[(3) Any person who, immediately before the commencement of the Constitution (Seventh Amendment) Act, 1956, was holding office as the Chief Justice of the High Court of a State specified in Part B of the First Schedule and has on such commencement become the Chief Justice of the High Court of a State specified in the said Schedule as amended by the said Act, shall, if he was immediately before such commencement drawing any amount as allowance in addition to his salary, be entitled to receive in respect of time spent on actual service as such Chief Justice, the same amount as allowance in addition to the salary specified in sub-paragraph (1) of this paragraph.].

1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 25(c), (ii), for sub-paragraphs (3) and (4) (w.e.f. 1-11-1956).

11. In this Part, unless the context otherwise requires,—

(a) the expression “Chief Justice” includes an acting Chief Justice, and a “Judge” includes an *ad hoc* Judge;

(b) “actual service” includes—

(i) time spent by a Judge on duty as a Judge or in the performance of such other functions as he may at the request of the President undertake to discharge;

(ii) vacations, excluding any time during which the Judge is absent on leave; and

(iii) joining time on transfer from a High Court to the Supreme Court or from one High Court to another.

PART E

PROVISIONS AS TO THE COMPTROLLER AND AUDITOR-GENERAL OF INDIA

12. (1) There shall be paid to the Comptroller and Auditor-General of India a salary at the rate of *four thousand rupees per mensem.

(2) The person who was holding office immediately before the commencement of this Constitution as Auditor-General of India and has become on such commencement the Comptroller and Auditor-General of India under article 377 shall in addition to the salary specified in sub-paragraph (1) of this paragraph be entitled to receive as special pay an amount equivalent to the difference between the salary so specified and the salary which he was drawing as Auditor-General of India immediately before such commencement.

(3) The rights in respect of leave of absence and pension and the other conditions of service of the Comptroller and Auditor-General of India shall be governed or shall continue to be governed, as the case may be, by the provisions which were applicable to the Auditor-General of India immediately before the commencement of this Constitution and all references in those provisions to the Governor-General shall be construed as references to the President.

* The Comptroller and Auditor-General of India shall be paid a salary equal to the salary of the Judges of the Supreme Court *vide* s. 3 of the Comptroller and Auditor-General (Duties, Powers and Conditions of Service) Act, 1971 (56 of 1971). The salary of Judges of the Supreme Court has been raised to two lakh fifty thousand rupees per mensem by the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2018 (10 of 2018), s. 6 (w.e.f. 1-1-2016).

THIRD SCHEDULE

[Articles 75(4), 99, 124(6), 148(2), 164(3), 188 and 219]*

Forms of Oaths or Affirmations

I

Form of oath of office for a Minister for the Union:—

“I, A. B., do swear in the name of God that I will bear true faith solemnly affirm

and allegiance to the Constitution of India as by law established,¹ [that I will uphold the sovereignty and integrity of India,] that I will faithfully and conscientiously discharge my duties as a Minister for the Union and that I will do right to all manner of people in accordance with the Constitution and the law, without fear or favour, affection or ill-will.”

II

Form of oath of secrecy for a Minister for the Union:—

“I, A.B., do swear in the name of God that I will not directly or solemnly affirm

indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister for the Union except as may be required for the due discharge of my duties as such Minister.”

²[III]

A

Form of oath or affirmation to be made by a candidate for election to Parliament:—

* See also arts. 84 (a) and 173 (a).

1. Ins. by the Constitution (Sixteenth Amendment) Act, 1963, s. 5 (w.e.f. 5-10-1963).

2. Subs. by s. 5, *ibid.*, for Form III. (w.e.f. 5-10-1963).

"I, A.B., having been nominated as a candidate to fill a seat in the Council of States (or the House of the People) do swear in the name of God solemnly affirm

that I will bear true faith and allegiance to the Constitution of India as by law established and that I will uphold the sovereignty and integrity of India."

B

Form of oath or affirmation to be made by a member of Parliament:—

"I, A.B., having been elected (or nominated) a member of the Council of States (or the House of the People) do swear in the name of God solemnly affirm

that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter."]

IV

Form of oath or affirmation to be made by the Judges of the Supreme Court and the Comptroller and Auditor-General of India:—

"I, A.B., having been appointed Chief Justice (or a Judge) of the Supreme Court of India (or Comptroller and Auditor-General of India) do swear in the name of God that I will bear true faith and solemnly affirm

faith and allegiance to the Constitution of India as by law established, [that I will uphold the sovereignty and integrity of India,] that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws."

1. Ins. by the Constitution (Sixteenth Amendment) Act, 1963, s. 5 (w.e.f. 5-10-1963).

V

Form of oath of office for a Minister for a State:—

“I, A.B., do swear in the name of God that I will bear true faith solemnly affirm

and allegiance to the Constitution of India as by law established,¹ [that I will uphold the sovereignty and integrity of India,] that I will faithfully and conscientiously discharge my duties as a Minister for the State ofand that I will do right to all manner of people in accordance with the Constitution and the law without fear or favour, affection or ill-will.”

VI

Form of oath of secrecy for a Minister for a State:—

“I, A.B., do swear in the name of God that I will not directly or solemnly affirm

indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister for the State ofexcept as may be required for the due discharge of my duties as such Minister.”

²[VII

A

Form of oath or affirmation to be made by a candidate for election to the Legislature of a State:—

“I, A.B., having been nominated as a candidate to fill a seat in the Legislative Assembly (or Legislative Council), do swear in the name of God that I will bear true faith and solemnly affirm

allegiance to the Constitution of India as by law established and that I will uphold the sovereignty and integrity of India.”

1. Ins. by the Constitution (Sixteenth Amendment) Act, 1963, s. 5 (w.e.f. 5-10-1963).

2. Subs. by s. 5, *ibid.*, for Form VII (w.e.f. 5-10-1963).

B

Form of oath or affirmation to be made by a member of the Legislature of a State:—

“I, A.B., having been elected (or nominated) a member of the Legislative Assembly (or Legislative Council), do swear in the name of God that solemnly affirm

I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter.”]

VIII

Form of oath or affirmation to be made by the Judges of a High Court:—

“I, A.B., having been appointed Chief Justice (or a Judge) of the High Court at (or of) do swear in the name of God that I will bear solemnly affirm

true faith and allegiance to the Constitution of India as by law established, ¹[that I will uphold the sovereignty and integrity of India,] that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws.”

1. Ins. by the Constitution (Sixteenth Amendment) Act, 1963, s. 5 (w.e.f. 5-10-1963).

¹[FOURTH SCHEDULE

[Articles 4(1) and 80(2)]

Allocation of seats in the Council of States

To each State or Union territory specified in the first column of the following table, there shall be allotted the number of seats specified in the second column thereof opposite to that State or that Union territory, as the case may be:

TABLE

1.	Andhra Pradesh	² [11]
³ [2.]	Telangana	7]
⁴ [3.]	Assam	7
⁴ [4.]	Bihar	⁵ [16]
⁶ [⁴ [5.]	Jharkhand	6]
⁷ [⁸ [⁴ [6.]	Goa	1]]
⁹ [⁸ [⁴ [7.]	Gujarat	11]]
¹⁰ [⁸ [⁴ [8.]	Haryana	5]]
⁸ [⁴ [9.]	Kerala	9

1. Fourth Schedule Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 3(2), for 'Fourth Schedule' (w.e.f. 1-11-1956).
2. Subs. by the Andhra Pradesh Reorganisation Act, 2014, s. 12, for "18" (w.e.f. 2-6-2014).
3. Ins. by s. 12, *ibid.* (w.e.f. 2-6-2014).
4. Entries 2 to 30 renumbered as entries 3 to 31 respectively by s. 12, *ibid.* (w.e.f. 2-6-2014).
5. Subs. by the Bihar Reorganisation Act, 2000 (30 of 2000), s. 7, for "22" (w.e.f. 15-11-2000).
6. Ins. by s. 7, *ibid.* (w.e.f. 15-11-2000).
7. Entries 4 to 26 renumbered as entries 5 to 27 respectively and entry "4 Goa...1" ins. by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), s. 6(a) and (b) (w.e.f. 30-5-1987).
8. Entries 4 to 29 renumbered as entries 5 to 30 by the Bihar Reorganisation Act, 2000 (30 of 2000), s. 7 (w.e.f. 15-11-2000).
9. Subs. by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 6, for entry "4" (w.e.f. 1-5-1960).
10. Ins. by the Punjab Reorganisation Act, 1966 (31 of 1966), s. 9 (w.e.f. 1-11-1966).

THE CONSTITUTION OF INDIA

(Fourth Schedule)

¹ [² [10.]	Madhya Pradesh	³ [11]
⁴ [¹ [² [11.]	Chhattisgarh	⁵]]
⁵ [¹ [² [12.]	Tamil Nadu	⁶ [18]]
⁷ [¹ [² [13.]	Maharashtra	¹⁹]]
⁸ [¹ [² [14.]	Karnataka	¹²]]
¹ [² [15.]	⁹ [Odisha]	¹⁰]
¹ [² [16.]	Punjab	¹⁰ [7]
¹ [² [17.]	Rajasthan	¹⁰]
¹ [² [18.]	Uttar Pradesh	¹¹ [31]
¹ [² [19.]	¹³ [Uttarakhand]	³]]
¹ [² [20.]	West Bengal	¹⁶]
¹⁴ [¹ [² [**	* * *	*]
¹⁵ [¹ [² [21.]	Nagaland	¹]]

1. Entries 4 to 29 renumbered as entries 5 to 30 by the Bihar Reorganisation Act, 2000 (30 of 2000), s. 7 (w.e.f. 15-11-2000).
2. Entries 2 to 30 renumbered as entries 3 to 31 respectively by the Andhra Pradesh Reorganisation Act, 2014, s. 12 (w.e.f. 2-6-2014).
3. Subs. by the Madhya Pradesh Reorganisation Act, 2000 (28 of 2000), s. 7, for "16" (w.e.f. 1-11-2000).
4. Ins. by s. 7, *ibid.* (w.e.f. 1-11-2000).
5. Subs. by the Madras State (Alteration of Name) Act, 1968 (53 of 1968), s. 5, for "8. Madras" (renumbered as "11") (w.e.f. 14-1-1969).
6. Subs. by the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959 (56 of 1959), s. 8, for "17" (w.e.f. 1-4-1960).
7. Ins. by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 6 (w.e.f. 1-5-1960).
8. Subs. by the Mysore State (Alteration of Name) Act, 1973 (31 of 1973), s. 5, for "10. Mysore" (w.e.f. 1-11-1973).
9. Subs. by the Orissa (Alteration of Name) Act, 2011 (15 of 2011), s. 7 for "Orissa" (w.e.f. 1-11-2011).
10. Subs. by the Punjab Reorganisation Act, 1966 (31 of 1966), s. 9 for "11" (w.e.f. 1-11-1966).
11. Subs. by the Uttar Pradesh Reorganisation Act, 2000 (29 of 2000), s. 7 for "34" (w.e.f. 9-11-2000).
12. Ins. by s. 7, *ibid.* (w.e.f. 9-11-2000).
13. Subs. by the Uttarakhand (Alteration of Name) Act, 2006 (52 of 2006), s. 5 for "Uttarakhand" (w.e.f. 1-1-2007).
14. ** Entry 21 relating to Jammu and Kashmir deleted by the Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019), s. 8 (w.e.f. 31-10-2019).
15. Entries 22 to 31 re-numbered as entries 21 to 30, respectively by the Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019), s. 8 (w.e.f. 31-10-2019).
16. Ins. by the State of Nagaland Act, 1962 (27 of 1962), s. 6 (w.e.f. 1-12-1963).

(Fourth Schedule)

¹ [² [³ [⁴ [22.]	Himachal Pradesh	3]]]
³ [² [⁴ [23.]	Manipur	1]
³ [² [⁴ [24.]	Tripura	1]]
³ [² [⁴ [25.]	Meghalaya	1]]
⁵ [³ [² [⁴ [26.]	Sikkim	1]]
⁶ [³ [² [⁴ [27.]	Mizoram	1]]
⁷ [³ [² [⁴ [28.]	Arunachal Pradesh	1]]
³ [² [⁴ [29.]	Delhi	3]
³ [² [⁴ [30.]	⁸ [Puducherry]	1]]
⁹ [³ [² [⁴ [31.	Jammu and Kashmir.....	4]
Total		¹⁰ [233]

1. Ins. by the State of Himachal Pradesh Act, 1970 (53 of 1970), s. 5 (w.e.f. 25-1-1971).
2. Entries 4 to 29 renumbered as entries 5 to 30 by the Bihar Reorganisation Act, 2000 (30 of 2000), s. 7 (w.e.f. 15-11-2000).
3. Entries 2 to 30 renumbered as entries 3 to 31 respectively by the Andhra Pradesh Reorganisation Act, 2014 (6 of 2014), s. 12 (w.e.f. 2-6-2014).
4. Entries 22 to 31 renumbered as entries 21 to 30 respectively by the Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019), s. 8 (w.e.f. 31-10-2019).
5. Ins. by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 4 (w.e.f. 26-4-1975).
6. Ins. by the State of Mizoram Act, 1986 (34 of 1986), s. 5 (w.e.f. 20-2-1987).
7. Ins. by the State of Arunachal Pradesh Act, 1986 (69 of 1986), s. 5 (w.e.f. 20-2-1987).
8. Subs. by the Pondicherry (Alteration of Name) Act, 2006 (44 of 2006) s. 4, for "Pondicherry" (w.e.f. 1-10-2006).
9. Ins. by the Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019), s. 8 (w.e.f. 31-10-2019).
10. Subs. by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), s. 6, for "232" (w.e.f. 30-5-1987).

FIFTH SCHEDULE

[Article 244(1)]

Provisions as to the Administration and Control of Scheduled Areas and Scheduled Tribes

PART A

GENERAL

1. **Interpretation.**—In this Schedule, unless the context otherwise requires, the expression "State" ^{1***} does not include the ²[States of Assam ³[, ⁴[Meghalaya, Tripura and Mizoram.]]]

2. **Executive power of a State in Scheduled Areas.**—Subject to the provisions of this Schedule, the executive power of a State extends to the Scheduled Areas therein.

3. **Report by the Governor ^{5***} to the President regarding the administration of Scheduled Areas.**—The Governor ^{5***} of each State having Scheduled Areas therein shall annually, or whenever so required by the President, make a report to the President regarding the administration of the Scheduled Areas in that State and the executive power of the Union shall extend to the giving of directions to the State as to the administration of the said areas.

PART B

ADMINISTRATION AND CONTROL OF SCHEDULED AREAS AND SCHEDULED TRIBES

4. **Tribes Advisory Council.**—(1) There shall be established in each State having Scheduled Areas therein and, if the President so directs, also in any State having Scheduled Tribes but not Scheduled Areas therein, a Tribes Advisory Council consisting of not more than twenty members of whom, as nearly as may be, three-fourths shall be the representatives of the Scheduled Tribes in the Legislative Assembly of the State:

1. The words and letters "means a State specified in Part A or Part B of the First Schedule but" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).
2. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71, for "State of Assam" (w.e.f. 21-1-1972).
3. Subs. by the Constitution (Forty-ninth Amendment) Act, 1984, s. 3, for "and Meghalaya" (w.e.f. 1-4-1985).
4. Subs. by the State of Mizoram Act, 1986 (34 of 1986), s. 39, for "Meghalaya and Tripura" (w.e.f. 20-2-1987).
5. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

Provided that if the number of representatives of the Scheduled Tribes in the Legislative Assembly of the State is less than the number of seats in the Tribes Advisory Council to be filled by such representatives, the remaining seats shall be filled by other members of those tribes.

(2) It shall be the duty of the Tribes Advisory Council to advise on such matters pertaining to the welfare and advancement of the Scheduled Tribes in the State as may be referred to them by the Governor ^{1***}.

(3) The Governor ^{2***} may make rules prescribing or regulating, as the case may be,—

(a) the number of members of the Council, the mode of their appointment and the appointment of the Chairman of the Council and of the officers and servants thereof;

(b) the conduct of its meetings and its procedure in general; and

(c) all other incidental matters.

5. Law applicable to Scheduled Areas.—(1) Notwithstanding anything in this Constitution, the Governor ^{1***} may by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or any part thereof in the State or shall apply to a Scheduled Area or any part thereof in the State subject to such exceptions and modifications as he may specify in the notification and any direction given under this sub-paragraph may be given so as to have retrospective effect.

(2) The Governor may make regulations for the peace and good government of any area in a State which is for the time being a Scheduled Area.

In particular and without prejudice to the generality of the foregoing power, such regulations may—

(a) prohibit or restrict the transfer of land by or among members of the Scheduled Tribes in such area;

(b) regulate the allotment of land to members of the Scheduled Tribes in such area;

1. The words "or Rajpramukh, as the case may be" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. The words "or Rajpramukh" omitted by s. 29 and Sch., *ibid.* (w.e.f. 1-11-1956).

(c) regulate the carrying on of business as money-lender by persons who lend money to members of the Scheduled Tribes in such area.

(3) In making any such regulation as is referred to in sub-paragraph (2) of this paragraph, the Governor ^{1***} may repeal or amend any Act of Parliament or of the Legislature of the State or any existing law which is for the time being applicable to the area in question.

(4) All regulations made under this paragraph shall be submitted forthwith to the President and, until assented to by him, shall have no effect.

(5) No regulation shall be made under this paragraph unless the Governor ^{1***} making the regulation has, in the case where there is a Tribes Advisory Council for the State, consulted such Council.

PART C

SCHEDULED AREAS

6. Scheduled Areas.—(1) In this Constitution, the expression "Scheduled Areas" means such areas as the President may by order ^{*} declare to be Scheduled Areas.

(2) The President may at any time by order**—

(a) direct that the whole or any specified part of a Scheduled Area shall cease to be a Scheduled Area or a part of such an area;

²[(aa) increase the area of any Scheduled Area in a State after consultation with the Governor of that State;]

(b) alter, but only by way of rectification of boundaries, any Scheduled Area;

1. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

The words "or Rajpramukh" omitted by s. 29 and sch., *ibid.* (w.e.f. 1-11-1956).

* See the Scheduled Areas (Part A States) Order, 1950 (C.O. 9), the Scheduled Areas (Part B States) Order, 1950 (C.O.26), the Scheduled Areas (Himachal Pradesh) Order, 1975 (C.O. 102) and the Scheduled Areas (States of Bihar, Gujarat, Madhya Pradesh and Orissa) Order, 1977 (C.O. 109).

** See the Madras Scheduled Areas (Cessor) Order, 1950 (C.O. 30) and the Andhra Scheduled Areas (Cessor) Order, 1955 (C.O. 50).

2. Ins. by the Fifth Schedule to the Constitution (Amendment) Act, 1976 (101 of 1976), s. 2 (w.e.f. 7-9-1976).

(c) on any alteration of the boundaries of a State or on the admission into the Union or the establishment of a new State, declare any territory not previously included in any State to be, or to form part of, a Scheduled Area;

¹[(d) rescind, in relation to any State or States, any order or orders made under this paragraph, and in consultation with the Governor of the State concerned, make fresh orders redefining the areas which are to be Scheduled Areas;]

and any such order may contain such incidental and consequential provisions as appear to the President to be necessary and proper, but save as aforesaid, the order made under sub-paragraph (1) of this paragraph shall not be varied by any subsequent order.

PART D

AMENDMENT OF THE SCHEDULE

7. Amendment of the Schedule.—(1) Parliament may from time to time by law amend by way of addition, variation or repeal any of the provisions of this Schedule and, when the Schedule is so amended, any reference to this Schedule in this Constitution shall be construed as a reference to such Schedule as so amended.

(2) No such law as is mentioned in sub-paragraph (1) of this paragraph shall be deemed to be an amendment of this Constitution for the purposes of article 368.

1. Ins. by the Fifth Schedule to the Constitution (Amendment) Act, 1976 (101 of 1976), s. 2 (w.e.f. 7-9-1976).

SIXTH SCHEDULE

[Articles 244(2) and 275(1)]

Provisions as to the Administration of Tribal Areas in ¹[the States of Assam, Meghalaya, Tripura and Mizoram]

²1. **Autonomous districts and autonomous regions.**—(1) Subject to the provisions of this paragraph, the tribal areas in each item of ³[⁴[Parts I, II and IIA] and in Part III] of the table appended to paragraph 20 of this Schedule shall be an autonomous district.

(2) If there are different Scheduled Tribes in an autonomous district, the Governor may, by public notification, divide the area or areas inhabited by them into autonomous regions.

(3) The Governor may, by public notification,—

- (a) include any area in ³[any of the Parts] of the said table;
 - (b) exclude any area from ³[any of the Parts] of the said table;
 - (c) create a new autonomous district;
 - (d) increase the area of any autonomous district;
 - (e) diminish the area of any autonomous district;
 - (f) unite two or more autonomous districts or parts thereof so as to form one autonomous district;
- ⁵[(f) alter the name of any autonomous district];
- (g) define the boundaries of any autonomous district:

-
1. Subs. by the State of Mizoram Act, 1986 (34 of 1986), s. 39, for certain words (w.e.f. 20-2-1987).
 2. Paragraph 1 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2, so as to insert the following proviso after sub-paragraph (2), namely :—

"Provided that nothing in this sub-paragraph shall apply to the Bodoland Territorial Areas District" (w.e.f. 7-9-2003).
 3. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch., for "Part A" (w.e.f. 21-1-1972).
 4. Subs. by the Constitution (Forty-ninth Amendment) Act, 1984, s. 4, for "Part I and II" (w.e.f. 1-4-1985).
 5. Ins. by the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969), s. 74 and Fourth Sch. (w.e.f. 2-4-1970).

Provided that no order shall be made by the Governor under clauses (c), (d), (e) and (f) of this sub-paragraph except after consideration of the report of a Commission appointed under sub-paragraph (1) of paragraph 14 of this Schedule:

¹[Provided further that any order made by the Governor under this sub-paragraph may contain such incidental and consequential provisions (including any amendment of paragraph 20 and of any item in any of the Parts of the said Table) as appear to the Governor to be necessary for giving effect to the provisions of the order.]

²2. Constitution of District Councils and Regional Councils.—

³[(1) There shall be a District Council for each autonomous district consisting of not more than thirty members, of whom not more than four persons shall be nominated by the Governor and the rest shall be elected on the basis of adult suffrage.]

1. Ins. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch. (w.e.f. 21-1-1972).
2. Paragraph 2 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003(44 of 2003), s. 2, so as to insert the following proviso after sub-paragraph (1), namely:—

“Provided that the Bodoland Territorial Council shall consist of not more than forty-six members of whom forty shall be elected on the basis of adult suffrage, of whom thirty shall be reserved for the Scheduled Tribes, five for non-tribal communities, five open for all communities and the remaining six shall be nominated by the Governor having same rights and privileges as other members, including voting rights, from amongst the un-represented communities of the Bodoland Territorial Areas District, of which at least two shall be women.”

Paragraph 2 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 1995(42 of 1995), s.2, so as to insert the following proviso after sub-paragraph (3), namely :—

“Provided that the District Council constituted for the North Cachar Hills District shall be called as the North Cachar Hills Autonomous Council and the District Council constituted for the Karbi Anglong District shall be called as the Karbi Anglong Autonomous Council.”

Paragraph 2 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003(44 of 2003), s. 2, so as to insert the following proviso after sub-paragraph (3), namely:—

“Provided further that the District Council constituted for the Bodoland Territorial Areas District shall be called the Bodoland Territorial Council.”

3. Subs. by the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969), s. 74 and Fourth Sch., for sub-paraghaph (1) (w.c.f. 2-4-1970).

(2) There shall be a separate Regional Council for each area constituted an autonomous region under sub-paragraph (2) of paragraph 1 of this Schedule.

(3) Each District Council and each Regional Council shall be a body corporate by the name respectively of "the District Council of (*name of district*)" and "the Regional Council of (*name of region*)", shall have perpetual succession and a common seal and shall by the said name sue and be sued.

(4) Subject to the provisions of this Schedule, the administration of an autonomous district shall, in so far as it is not vested under this Schedule in any Regional Council within such district, be vested in the District Council for such district and the administration of an autonomous region shall be vested in the Regional Council for such region.

(5) In an autonomous district with Regional Councils, the District Council shall have only such powers with respect to the areas under the authority of the Regional Council as may be delegated to it by the Regional Council in addition to the powers conferred on it by this Schedule with respect to such areas.

(6) The Governor shall make rules for the first constitution of District Councils and Regional Councils in consultation with the existing tribal Councils or other representative tribal organisations within the autonomous districts or regions concerned, and such rules shall provide for—

- (a) the composition of the District Councils and Regional Councils and the allocation of seats therein;
- (b) the delimitation of territorial constituencies for the purpose of elections to those Councils;
- (c) the qualifications for voting at such elections and the preparation of electoral rolls therefor;
- (d) the qualifications for being elected at such elections as members of such Councils;
- (e) the term of office of members of ¹[Regional Councils];

1. Subs. by the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969), s. 74 and Fourth Sch., for "such Councils" (w.e.f. 2-4-1970).

(f) any other matter relating to or connected with elections or nominations to such Councils;

(g) the procedure and the conduct of business ¹[(including the power to act notwithstanding any vacancy)] in the District and Regional Councils;

(h) the appointment of officers and staff of the District and Regional Councils.

¹[(6A) The elected members of the District Council shall hold office for a term of five years from the date appointed for the first meeting of the Council after the general elections to the Council, unless the District Council is sooner dissolved under paragraph 16 and a nominated member shall hold office at the pleasure of the Governor:

Provided that the said period of five years may, while a Proclamation of Emergency is in operation or if circumstances exist which, in the opinion of the Governor, render the holding of elections impracticable, be extended by the Governor for a period not exceeding one year at a time and in any case where a Proclamation of Emergency is in operation not extending beyond a period of six months after the Proclamation has ceased to operate:

Provided further that a member elected to fill a casual vacancy shall hold office only for the remainder of the term of office of the member whom he replaces.]

(7) The District or the Regional Council may after its first constitution make rules ¹[with the approval of the Governor] with regard to the matters specified in sub-paragraph (6) of this paragraph and may also make rules ¹[with like approval] regulating—

(a) the formation of subordinate local Councils or Boards and their procedure and the conduct of their business; and

(b) generally all matters relating to the transaction of business pertaining to the administration of the district or region, as the case may be:

1. Ins. by the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969), s. 74 and Fourth Sch. (w.e.f. 2-4-1970).

Provided that until rules are made by the District or the Regional Council under this sub-paragraph the rules made by the Governor under sub-paragraph (6) of this paragraph shall have effect in respect of elections to, the officers and staff of, and the procedure and the conduct of business in, each such Council.

* * * *

23. Powers of the District Councils and Regional Councils to make laws.—(1) The Regional Council for an autonomous region in

1. Second proviso omitted by s. 74 and Fourth Sch. of the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969) (w.e.f. 2-4-1970).
2. Paragraph 3 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2, so as to substitute sub-paragraph (3) as under (w.e.f. 7-9-2003).—

“(3) Save as otherwise provided in sub-paragraph (2) of paragraph 3A or sub-paragraph (2) of paragraph 3B, all laws made under this paragraph or sub-paragraph (1) of paragraph 3A or sub-paragraph (1) of paragraph 3B shall be submitted forthwith to the Governor and, until assented to by him, shall have no effect.”.

After paragraph 3, the following paragraph has been inserted in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 1995 (42 of 1995), s. 2, (w.e.f. 12-9-1995), namely:—

“3A. Additional powers of the North Cachar Hills Autonomous Council and the Karbi Anglong Autonomous Council to make laws.—(1) Without prejudice to the provisions of paragraph 3, the North Cachar Hills Autonomous Council and the Karbi Anglong Autonomous Council within their respective districts, shall have power to make laws with respect to—

- (a) industries, subject to the provisions of entries 7 and 52 of List I of the Seventh Schedule;
- (b) communications, that is to say, roads, bridges, ferries and other means of communication not specified in List I of the Seventh Schedule; municipal tramways, ropeways, inland waterways and traffic thereon subject to the provisions of List I and List III of the Seventh Schedule with regard to such waterways; vehicles other than mechanically propelled vehicles;
- (c) preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice; cattle pounds;
- (d) primary and secondary education;
- (e) agriculture, including agricultural education and research, protection against pests and prevention of plant diseases;
- (f) fisheries;

(Foot-note Continue),—

- (g) water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power subject to the provisions of entry 56 of List I of the Seventh Schedule;
 - (h) social security and social insurance; employment and unemployment;
 - (i) flood control schemes for protection of villages, paddy fields, markets, towns, etc. (not of technical nature);
 - (j) theatre and dramatic performances, cinemas subject to the provisions of entry 60 of List I of the Seventh Schedule; sports, entertainments and amusements;
 - (k) public health and sanitation, hospitals and dispensaries;
 - (l) minor irrigation;
 - (m) trade and commerce in, and the production supply and distribution of, food stuffs, cattle fodder, raw cotton and raw jute;
 - (n) libraries, museums and other similar institutions controlled or financed by the State; ancient and historical monuments and records other than those declared by or under any law made by Parliament to be of national importance; and
 - (o) alienation of land.
- (2) All laws made by the North Cachar Hills Autonomous Council and the Karbi Anglong Autonomous Council under paragraph 3 or under this paragraph shall, in so far as they relate to matters specified in List III of the Seventh Schedule, be submitted forthwith to the Governor who shall reserve the same for the consideration of the President.
- (3) When a law is reserved for the consideration of the President, the President shall declare either that he assents to the said law or that he withholds assent therefrom:

Provided that the President may direct the Governor to return the law to the North Cachar Hills Autonomous Council or the Karbi Anglong Autonomous Council, as the case may be, together with a message requesting that the said Council will reconsider the law or any specified provisions thereof and, in particular, will, consider the desirability of introducing any such amendments as he may recommend in his message and, when the law is so returned, the said Council shall consider the law accordingly within a period of six months from the date of receipt of such message and, if the law is again passed by the said Council with or without amendment it shall be presented again to the President for his consideration.".

After paragraph 3A, the following paragraph has been inserted in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2, (w.e.f. 7-9-2003), namely:—

3B. Additional powers of the Bodoland Territorial Council to make laws.—(1) Without prejudice to the provisions of paragraph 3, the Bodoland Territorial Council within its areas shall have power to make laws with respect to :—

- (i) agriculture, including agricultural education and research, protection against pests and prevention of plant diseases; (ii) animal husbandry and veterinary, that is to say, preservation, protection and improvement of stock and prevention of animal diseases, veterinary training and practice, cattle pounds; (iii) co-operation; (iv) cultural affairs; (v) education, that is to say, primary education, higher secondary including vocational training, adult education, college education (general); (vi) fisheries; (vii) flood control for protection of village, paddy fields, markets and towns (not of technical nature); (viii) Food and civil

supply; (ix) forests (other than reserved forests); (x) handloom and textile; (xi) health and family welfare, (xii) intoxicating liquors, opium and derivatives, subject to the provisions of entry 84 of List I of the Seventh Schedule; (xiii) irrigation; (xiv) labour and employment; (xv) land and revenue; (xvi) library services (financed and controlled by the State Government); (xvii) lotteries (subject to the provisions of entry 40 of List I of the Seventh Schedule), theatres, dramatic performances and cinemas (subject to the provisions of entry 60 of List I of the Seventh Schedule); (xviii) markets and fairs; (xix) municipal corporation, improvement trust, district boards and other local authorities; (xx) museum and archaeology institutions controlled or financed by the State, ancient and historical monuments and records other than those declared by or under any law made by Parliament to be of national importance; (xxi) panchayat and rural development; (xxii) planning and development; (xxiii) printing and stationery; (xxiv) public health engineering; (xxv) public works department; (xxvi) publicity and public relations; (xxvii) registration of births and deaths; (xxviii) relief and rehabilitation; (xxix) sericulture; (xxx) small, cottage and rural industry subject to the provisions of entries 7 and 52 of List I of the Seventh Schedule; (xxx) social Welfare; (xxxii) soil conservation; (xxxiii) sports and youth welfare; (xxxiv) statistics; (xxxv) tourism; (xxxvi) transport (roads, bridges, ferries and other means of communications not specified in List I of the Seventh Schedule, municipal tramways, ropeways, inland waterways and traffic thereon subject to the provision of List I and List III of the Seventh Schedule with regard to such waterways, vehicles other than mechanically propelled vehicles); (xxxvii) tribal research institute controlled and financed by the State Government; (xxxviii) urban development—town and country planning; (xxxix) weights and measures subject to the provisions of entry 50 of List I of the Seventh Schedule; and (xl) Welfare of plain tribes and backward classes:

Provided that nothing in such laws shall—

(a) extinguish or modify the existing rights and privileges of any citizen in respect of his land at the date of commencement of this Act; and

(b) disallow any citizen from acquiring land either by way of inheritance, allotment, settlement or by any other way of transfer if such citizen is otherwise eligible for such acquisition of land within the Bodoland Territorial Areas District.

(2) All laws made under paragraph 3 or under this paragraph shall in so far as they relate to matters specified in List III of the Seventh Schedule, be submitted forthwith to the Governor who shall reserve the same for the consideration of the President.

(3) When a law is reserved for the consideration of the President, the President shall declare either that he assents to the said law or that he withholds assent therefrom:

Provided that the President may direct the Governor to return the law to the Bodoland Territorial Council, together with the message requesting that the said Council will reconsider the law or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and, when the law is so returned, the said Council shall consider the law accordingly within a period of six months from the date of receipt of such message and, if the law is again passed by the said Council with or without amendments it shall be presented again to the President for his consideration.”.

respect of all areas within such region and the District Council for an autonomous district in respect of all areas within the district except those which are under the authority of Regional Councils, if any, within the district shall have power to make laws with respect to—

(a) the allotment, occupation or use, or the setting apart, of land, other than any land which is a reserved forest for the purposes of agriculture or grazing or for residential or other non-agricultural purposes or for any other purpose likely to promote the interests of the inhabitants of any village or town:

Provided that nothing in such laws shall prevent the compulsory acquisition of any land, whether occupied or unoccupied, for public purposes ¹[by the Government of the State concerned] in accordance with the law for the time being in force authorising such acquisition;

(b) the management of any forest not being a reserved forest;

(c) the use of any canal or water-course for the purpose of agriculture;

(d) the regulation of the practice of *jhum* or other forms of shifting cultivation;

(e) the establishment of village or town committees or councils and their powers;

(f) any other matter relating to village or town administration, including village or town police and public health and sanitation;

(g) the appointment or succession of Chiefs or Headmen;

(h) the inheritance of property;

²[(i) marriage and divorce;]

(j) social customs.

(2) In this paragraph, a “reserved forest” means any area which is a reserved forest under the Assam Forest Regulation, 1891, or under any other law for the time being in force in the area in question.

1. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch., for certain words (w.e.f. 21-1-1972).

2. Subs. by the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969), s. 74 and Fourth Sch., for cl. (i) (w.e.f. 2-4-1970).

(3) All laws made under this paragraph shall be submitted forthwith to the Governor and, until assented to by him, shall have no effect.

14. Administration of justice in autonomous districts and autonomous regions.—(1) The Regional Council for an autonomous region in respect of areas within such region and the District Council for an autonomous district in respect of areas within the district other than those which are under the authority of the Regional Councils, if any, within the district may constitute village councils or courts for the trial of suits and cases between the parties all of whom belong to Scheduled Tribes within such areas, other than suits and cases to which the provisions of sub-paragraph (1) of paragraph 5 of this Schedule apply, to the exclusion of any court in the State, and may appoint suitable persons to be members of such village councils or presiding officers of such courts, and may also appoint such officers as may be necessary for the administration of the laws made under paragraph 3 of this Schedule.

(2) Notwithstanding anything in this Constitution, the Regional Council for an autonomous region or any court constituted in that behalf by the Regional Council or, if in respect of any area within an autonomous district there is no Regional Council, the District Council for such district, or any court constituted in that behalf by the District Council, shall exercise the powers of a court of appeal in respect of all suits and cases triable by a village council or court constituted under sub-paragraph (1) of this paragraph within such region or area, as the case may be, other than those to which the provisions of sub-paragraph (1) of paragraph 5 of this Schedule apply, and no other court except the High Court and the Supreme Court shall have jurisdiction over such suits or cases.

(3) The High Court ^{2***} shall have and exercise such jurisdiction over the suits and cases to which the provisions of sub-paragraph (2) of this paragraph apply as the Governor may from time to time by order specify.

1. Paragraph 4 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2, (w.e.f. 7-9-2003) so as to insert the following sub-paragraph after sub-paragraph (5), namely:—

“(6) Nothing in this paragraph shall apply to the Bodoland Territorial Council constituted under the proviso to sub-paragraph (3) of paragraph 2 of this Schedule.”.

2. The words "of Assam" omitted by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch. (w.e.f. 21-1-1972).

(4) A Regional Council or District Council, as the case may be, may with the previous approval of the Governor make rules regulating—

- (a) the constitution of village councils and courts and the powers to be exercised by them under this paragraph;
- (b) the procedure to be followed by village councils or courts in the trial of suits and cases under sub-paragraph (1) of this paragraph;
- (c) the procedure to be followed by the Regional or District Council or any court constituted by such Council in appeals and other proceedings under sub-paragraph (2) of this paragraph;
- (d) the enforcement of decisions and orders of such councils and courts;
- (e) all other ancillary matters for the carrying out of the provisions of sub-paragraphs (1) and (2) of this paragraph.

¹[(5) On and from such date as the President may,² [after consulting the Government of the State concerned], by notification appoint in this behalf, this paragraph shall have effect in relation to such autonomous district or region as may be specified in the notification, as if—

- (i) in sub-paragraph (1), for the words “between the parties all of whom belong to Scheduled Tribes within such areas, other than suits and cases to which the provisions of sub-paragraph (1) of paragraph 5 of this Schedule apply,”, the words “not being suits and cases of the nature referred to in sub-paragraph (1) of paragraph (5) of this Schedule, which the Governor may specify in this behalf,” had been substituted;
- (ii) sub-paragraphs (2) and (3) had been omitted;
- (iii) in sub-paragraph (4)—
 - (a) for the words “A Regional Council or District Council, as the case may be, may with the previous approval of the Governor make rules regulating”, the words “the Governor may make rules regulating” had been substituted; and
 - (b) for clause (a), the following clause had been substituted, namely:—

1. Ins. by the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969), s. 74 and Fourth Sch. (w.e.f. 2-4-1970).

2. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch., for certain words (w.e.f. 21-1-1972).

“(a) the constitution of village councils and courts, the powers to be exercised by them under this paragraph and the courts to which appeals from the decisions of village councils and courts shall lie;”;

(c) for clause (c), the following clause had been substituted, namely:—

“(c) the transfer of appeals and other proceedings pending before the Regional or District Council or any court constituted by such Council immediately before the date appointed by the President under sub-paragraph (5);”;

(d) in clause (e), for the words, brackets and figures “sub-paragraphs (1) and (2)”, the word, brackets and figure “sub-paragraph (1)” had been substituted.]

5. Conferment of powers under the Code of Civil Procedure, 1908, and the Code of Criminal Procedure, 1898¹, on the Regional and District Councils and on certain courts and officers for the trial of certain suits, cases and offences.—(1) The Governor may, for the trial of suits or cases arising out of any law in force in any autonomous district or region being a law specified in that behalf by the Governor, or for the trial of offences punishable with death, transportation for life, or imprisonment for a term of not less than five years under the Indian Penal Code or under any other law for the time being applicable to such district or region, confer on the District Council or the Regional Council having authority over such district or region or on courts constituted by such District Council or on any officer appointed in that behalf by the Governor, such powers under the Code of Civil Procedure, 1908, or, as the case may be, the Code of Criminal Procedure, 1898¹, as he deems appropriate, and thereupon the said Council, court or officer shall try the suits, cases or offences in exercise of the powers so conferred.

(2) The Governor may withdraw or modify any of the powers conferred on a District Council, Regional Council, court or officer under sub-paragraph (1) of this paragraph.

(3) Save as expressly provided in this paragraph, the Code of Civil Procedure, 1908, and the Code of Criminal Procedure, 1898¹, shall not apply to the trial of any suits, cases or offences in an autonomous district or in any autonomous region to which the provisions of this paragraph apply.

1. See the Code of Criminal Procedure, 1973 (2 of 1974).

¹[(4) On and from the date appointed by the President under sub-paragraph (5) of paragraph 4 in relation to any autonomous district or autonomous region, nothing contained in this paragraph shall, in its application to that district or region, be deemed to authorise the Governor to confer on the District Council or Regional Council or on courts constituted by the District Council any of the powers referred to in sub-paragraph (1) of this paragraph.]

²[6. **Powers of the District Council to establish primary schools, etc.**—(1) The District Council for an autonomous district may establish, construct, or manage primary schools, dispensaries, markets, ³[cattle pounds], ferries, fisheries, roads, road transport and waterways in the district and may, with the previous approval of the Governor, make regulations for the regulation and control thereof and, in particular, may prescribe the language and the manner in which primary education shall be imparted in the primary schools in the district.

(2) The Governor may, with the consent of any District Council, entrust either conditionally or unconditionally to that Council or to its officers functions in relation to agriculture, animal husbandry, community projects, co-operative societies, social welfare, village planning or any other matter to which the executive power of the State ^{4***} extends.

7. **District and Regional Funds.**—(1) There shall be constituted for each autonomous district, a District Fund and for each autonomous region, a Regional Fund to which shall be credited all moneys received respectively by the District Council for that district and the Regional Council for that region in the course of the administration of such district or region, as the case may be, in accordance with the provisions of this Constitution.

-
1. Ins. by the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969), s. 74 and Fourth Sch. (w.e.f. 2-4-1970).
 2. Subs. by s. 74 and Fourth Sch., *ibid.* for "paragraph 6" (w.e.f. 2-4-1970).
 3. Subs. by the Repealing and Amending Act, 1974 (56 of 1974), s. 4, for "cattle ponds" (w.e.f. 20-12-1974).
 4. The words "of Assam or Meghalaya, as the case may be," omitted by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch. (w.e.f. 21-1-1972).

¹[(2) The Governor may make rules for the management of the District Fund, or, as the case may be, the Regional Fund and for the procedure to be followed in respect of payment of money into the said Fund, the withdrawal of moneys therefrom, the custody of moneys therein and any other matter connected with or ancillary to the matters aforesaid.

(3) The accounts of the District Council or, as the case may be, the Regional Council shall be kept in such form as the Comptroller and Auditor-General of India may, with the approval of the President, prescribe.

(4) The Comptroller and Auditor-General shall cause the accounts of the District and Regional Councils to be audited in such manner as he may think fit, and the reports of the Comptroller and Auditor-General relating to such accounts shall be submitted to the Governor who shall cause them to be laid before the Council.]

8. Powers to assess and collect land revenue and to impose taxes.—(1) The Regional Council for an autonomous region in respect of all lands within such region and the District Council for an autonomous district in respect of all lands within the district except those which are in the areas under the authority of Regional Councils, if any, within the district, shall have the power to assess and collect revenue in respect of such lands in accordance with the principles for the time being followed ²[by the Government of the State in assessing lands for the purpose of land revenue in the State generally.]

(2) The Regional Council for an autonomous region in respect of areas within such region and the District Council for an autonomous district in respect of all areas in the district except those which are under the authority of Regional Councils, if any, within the district, shall have power to levy and collect taxes on lands and buildings, and tolls on persons resident within such areas.

(3) The District Council for an autonomous district shall have the power to levy and collect all or any of the following taxes within such district, that is to say—

- (a) taxes on professions, trades, callings and employments;
- (b) taxes on animals, vehicles and boats;

1. Subs. by the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969), s. 74 and Fourth Sch., for sub-paragraph (2) (w.e.f. 2-4-1970).

2. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch., for certain words (w.e.f. 21-1-1972).

(c) taxes on the entry of goods into a market for sale therein, and tolls on passengers and goods carried in ferries;^{1***}

(d) taxes for the maintenance of schools, dispensaries or roads;
^{2[and]}

^{3[(e)]} taxes on entertainment and amusements.]

(4) A Regional Council or District Council, as the case may be, may make regulations to provide for the levy and collection of any of the taxes specified in sub-paragraphs (2) and (3) of this paragraph^{4[and every such regulation shall be submitted forthwith to the Governor and, until assented to by him, shall have no effect].}

59. Licences or leases for the purpose of prospecting for, or extraction of, minerals.—(1) Such share of the royalties accruing each year from licences or leases for the purpose of prospecting for, or the extraction of, minerals granted by^{6[the Government of the State]} in respect of any area within an autonomous district as may be agreed upon between^{6[the Government of the State]} and the District Council of such district shall be made over to that District Council.

(2) If any dispute arises as to the share of such royalties to be made over to a District Council, it shall be referred to the Governor for determination and the amount determined by the Governor in his discretion shall be deemed to be the amount payable under sub-paragraph (1) of this paragraph to the District Council and the decision of the Governor shall be final.

1. The word "and" omitted by the Constitution (One Hundred and First Amendment) Act, 2016, s. 16(i) (w.e.f. 16-9-2016).

2. Ins. by s. 16(ii), *ibid.* (w.e.f. 16-9-2016).

3. Ins. by s. 16(iii), *ibid.* (w.e.f. 16-9-2016).

4. Ins. by the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969), s. 74 and Fourth Sch. (w.e.f. 2-4-1970).

5. Paragraph 9 has been amended in its application to the States of Tripura and Mizoram by the Sixth Schedule to the Constitution (Amendment) Act, 1988 (67 of 1988), s. 2 (w.e.f. 16-12-1988), so as to insert the following sub-paragraph after sub-paragraph (2), namely:—

"(3) The Governor may, by order, direct that the share of royalties to be made over to a District Council under this paragraph shall be made over to that Council within a period of one year from the date of any agreement under sub-paragraph (1) or, as the case may be, of any determination under sub-paragraph (2)."

6. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch., for "the Government of Assam" (w.e.f. 21-1-1972).

¹10. Power of District Council to make regulations for the control of money-lending and trading by non-tribals.—(1) The District Council of an autonomous district may make regulations for the regulation and control of money-lending or trading within the district by persons other than Scheduled Tribes resident in the district.

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

(a) prescribe that no one except the holder of a licence issued in that behalf shall carry on the business of money-lending;

(b) prescribe the maximum rate of interest which may be charged or be recovered by a money-lender;

(c) provide for the maintenance of accounts by money-lenders and for the inspection of such accounts by officers appointed in that behalf by the District Council;

(d) prescribe that no person who is not a member of the Scheduled Tribes resident in the district shall carry on wholesale or retail business in any commodity except under a licence issued in that behalf by the District Council:

1. Paragraph 10 has been amended in its application to the States of Tripura and Mizoram by the Sixth Schedule to the Constitution (Amendment) Act, 1988 (67 of 1988) (w.e.f. 16-12-1988) s.2, as under—

(a) in the heading, the words “by non-tribals” shall be omitted;

(b) in sub-paragraph (1), the words “other than Scheduled Tribes” shall be omitted;

(c) in sub-paragraph (2), for clause (d), the following clause shall be substituted, namely:—

“(d) prescribe that no person resident in the district shall carry on any trade, whether wholesale or retail, except under a licence issued in that behalf by the District Council.”

Provided that no regulations may be made under this paragraph unless they are passed by a majority of not less than three-fourths of the total membership of the District Council:

Provided further that it shall not be competent under any such regulations to refuse the grant of a licence to a money-lender or a trader who has been carrying on business within the district since before the time of the making of such regulations.

(3) All regulations made under this paragraph shall be submitted forthwith to the Governor and, until assented to by him, shall have no effect.

* * * *

11. Publication of laws, rules and regulations made under the Schedule.—All laws, rules and regulations made under this Schedule by a District Council or a Regional Council shall be published forthwith in the Official Gazette of the State and shall on such publication have the force of law.

12. ¹[Application of Acts of Parliament and of the Legislature of the State of Assam to autonomous districts and autonomous regions in the State of Assam].—(1) Notwithstanding anything in this Constitution,—

* Paragraph 10 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2 (w.e.f. 7-9-2003), so as to insert the following sub-paragraph after sub-paragraph (3), namely:—

"(4) Nothing in this paragraph shall apply to the Bodoland Territorial Council constituted under the proviso to sub-paragraph (3) of paragraph 2 of this Schedule.".

** Paragraph 12 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 1995 (42 of 1995), s. 2 (w.e.f. 12-9-1995) as under,—

'in paragraph 12, in sub-paragraph (1), for the words and figure "matters specified in paragraph 3 of this Schedule", the words, figures and letter "matters specified in paragraph 3 or paragraph 3A of this Schedule" shall be substituted.'

*** Paragraph 12 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2 (w.e.f. 7-9-2003), as under,—

'in paragraph 12, in sub-paragraph (1), in clause (a), for the words, figures and letter "matters specified in paragraph 3 or paragraph 3A of this Schedule", the words, figures and letters "matters specified in paragraph 3 or paragraph 3A or paragraph 3B of this Schedule" shall be substituted.'

1. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch., for the heading (w.e.f. 21-1-1972).

(a) no Act of the ¹[Legislature of the State of Assam] in respect of any of the matters specified in paragraph 3 of this Schedule as matters with respect to which a District Council or a Regional Council may make laws, and no Act of the Legislature of the State of Assam prohibiting or restricting the consumption of any non-distilled alcoholic liquor shall apply to any autonomous district or autonomous region ²[in that State] unless in either case the District Council for such district or having jurisdiction over such region by public notification so directs, and the District Council in giving such direction with respect to any Act may direct that the Act shall in its application to such district or region or any part thereof have effect subject to such exceptions or modifications as it thinks fit;

(b) the Governor may, by public notification, direct that any Act of Parliament or of the ¹[Legislature of the State of Assam] to which the provisions of clause (a) of this sub-paragraph do not apply shall not apply to an autonomous district or an autonomous region ²[in that State], or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may specify in the notification.

(2) Any direction given under sub-paragraph (1) of this paragraph may be given so as to have retrospective effect.

³[12A. Application of Acts of Parliament and of the Legislature of the State of Meghalaya to autonomous districts and autonomous regions in the State of Meghalaya.]—Notwithstanding anything in this Constitution,—

1. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch., for "Legislature of the State" (w.e.f. 21-1-1972).

2. Ins. by s. 71(i) and Eighth Sch., *ibid.* (w.e.f. 21-1-1972).

3. Subs. by s. 71(i) and Eighth Sch., *ibid.*, for paragraph 12A (w.e.f. 21-1-1972).

(a) if any provision of a law made by a District or Regional Council in the State of Meghalaya with respect to any matter specified in sub-paragraph (1) of paragraph 3 of this Schedule or if any provision of any regulation made by a District Council or a Regional Council in that State under paragraph 8 or paragraph 10 of this Schedule, is repugnant to any provision of a law made by the Legislature of the State of Meghalaya with respect to that matter, then, the law or regulation made by the District Council or, as the case may be, the Regional Council whether made before or after the law made by the Legislature of the State of Meghalaya, shall, to the extent of repugnancy, be void and the law made by the Legislature of the State of Meghalaya shall prevail;

(b) the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to an autonomous district or an autonomous region in the State of Meghalaya, or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may specify in the notification and any such direction may be given so as to have retrospective effect.]

¹[12AA. Application of Acts of Parliament and of the Legislature of the State of Tripura to the autonomous districts and autonomous regions in the State of Tripura.—Notwithstanding anything in this Constitution,—

(a) no Act of the Legislature of the State of Tripura in respect of any of the matters specified in paragraph 3 of this Schedule as matters with respect to which a District Council or a Regional Council may make laws, and no Act of the Legislature of the State of Tripura prohibiting or restricting the consumption of any non-distilled alcoholic liquor shall apply to the autonomous district or an autonomous region in that State unless, in either case, the District Council for that district or having jurisdiction over such region by public notification so directs, and the District Council in giving such direction with respect to any Act may direct that the Act shall, in its application to that district or such region or any part thereof have effect subject to such exceptions or modifications as it thinks fit;

1. Paragraph 12AA ins. by the Constitution (Forty-ninth Amendment) Act, 1984, s. 4 (w.e.f. 1-4-1985) and subsequently subs. by the Sixth Schedule to the Constitution (Amendment) Act, 1988 (67 of 1988), s. 2 (w.e.f. 16-12-1988).

(b) the Governor may, by public notification, direct that any Act of the Legislature of the State of Tripura to which the provisions of clause (a) of this sub-paragraph do not apply, shall not apply to the autonomous district or an autonomous region in that State, or shall apply to that district or such region, or any part thereof, subject to such exceptions or modifications, as he may specify in the notification;

(c) the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to the autonomous district or an autonomous region in the State of Tripura, or shall apply to such district or region or any part thereof, subject to such exceptions or modifications as he may specify in the notification and any such direction may be given so as to have retrospective effect.

12B. Application of Acts of Parliament and of the Legislature of the State of Mizoram to autonomous districts and autonomous regions in the State of Mizoram.—Notwithstanding anything in this Constitution,—

(a) no Act of the Legislature of the State of Mizoram in respect of any of the matters specified in paragraph 3 of this Schedule as matters with respect to which a District Council or a Regional Council may make laws, and no Act of the Legislature of the State of Mizoram prohibiting or restricting the consumption of any non-distilled alcoholic liquor shall apply to any autonomous district or autonomous region in that State unless, in either case, the District Council for such district or having jurisdiction over such region, by public notification, so directs, and the District Council, in giving such direction with respect to any Act, may direct that the Act shall, in its application to such district or region or any part thereof, have effect subject to such exceptions or modifications as it thinks fit;

(b) the Governor may, by public notification, direct that any Act of the Legislature of the State of Mizoram to which the provisions of clause (a) of this sub-paragraph do not apply, shall not apply to an autonomous district or an autonomous region in that State, or shall apply to such district or region, or any part thereof, subject to such exceptions or modifications, as he may specify in the notification;

(c) the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to an autonomous district or an autonomous region in the State of Mizoram, or shall apply to such district or region or any part thereof, subject to such exceptions or modifications as he may specify in the notification and any such direction may be given so as to have retrospective effect.]]

13. Estimated receipts and expenditure pertaining to autonomous districts to be shown separately in the annual financial statement.—The estimated receipts and expenditure pertaining to an autonomous district which are to be credited to, or is to be made from, the Consolidated Fund of the State^{1***} shall be first placed before the District Council for discussion and then after such discussion be shown separately in the annual financial statement of the State to be laid before the Legislature of the State under article 202.

²14. Appointment of Commission to inquire into and report on the administration of autonomous districts and autonomous regions.—(1) The Governor may at any time appoint a Commission to examine and report on any matter specified by him relating to the administration of the autonomous districts and autonomous regions in the State, including matters specified in clauses (c), (d), (e) and (f) of sub-paragraph (3) of paragraph 1 of this Schedule, or may appoint a Commission to inquire into and report from time to time on the administration of autonomous districts and autonomous regions in the State generally and in particular on—

- (a) the provision of educational and medical facilities and communications in such districts and regions;
 - (b) the need for any new or special legislation in respect of such districts and regions; and
 - (c) the administration of the laws, rules and regulations made by the District and Regional Councils;
- and define the procedure to be followed by such Commission.

-
1. The words "of Assam" omitted by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch. (w.e.f. 21-1-1972).
 2. Paragraph 14 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 1995 (42 of 1995), s. 2 (w.e.f. 12-9-1995) as under:—

‘in paragraph 14, in sub-paragraph (2), the words “with the recommendations of the Governor with respect thereto” shall be omitted.’

(2) The report of every such Commission with the recommendations of the Governor with respect thereto shall be laid before the Legislature of the State by the Minister concerned together with an explanatory memorandum regarding the action proposed to be taken thereon by ¹[the Government of the State.]

(3) In allocating the business of the Government of the State among his Ministers the Governor may place one of his Ministers specially in charge of the welfare of the autonomous districts and autonomous regions in the State.

²15. Annulment or suspension of acts and resolutions of District and Regional Councils.—(1) If at any time the Governor is satisfied that an act or resolution of a District or a Regional Council is likely to endanger the safety of India ³[or is likely to be prejudicial to public order], he may annul or suspend such act or resolution and take such steps as he may consider necessary (including the suspension of the Council and the assumption to himself of all or any of the powers vested in or exercisable by the Council) to prevent the commission or continuance of such act, or the giving of effect to such resolution.

(2) Any order made by the Governor under sub-paragraph (1) of this paragraph together with the reasons therefor shall be laid before the Legislature of the State as soon as possible and the order shall, unless revoked by the Legislature of the State, continue in force for a period of twelve months from the date on which it was so made:

Provided that if and so often as a resolution approving the continuance in force of such order is passed by the Legislature of the State, the order shall unless cancelled by the Governor continue in force for a further period of twelve months from the date on which under this paragraph it would otherwise have ceased to operate.

1. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch., for "the Government of Assam" (w.e.f. 21-1-1972).

2. Paragraph 15 has been amended in its application to the States of Tripura and Mizoram by the Sixth Schedule to the Constitution (Amendment) Act, 1988 (67 of 1988), s. 2 (w.e.f. 16-12-1988), as under,—

In Paragraph 15, in sub-paragraph (2), —

(a) in the opening paragraph, for the words "by the Legislature of the State", the words "by him" shall be substituted;

(b) the proviso shall be omitted.'

3. Ins. by the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969), s. 74 and Fourth Sch. (w.e.f. 2-4-1970).

¹16. **Dissolution of a District or a Regional Council.**—²[(1)] The Governor may on the recommendation of a Commission appointed under paragraph 14 of this Schedule by public notification order the dissolution of a District or a Regional Council, and—

(a) direct that a fresh general election shall be held immediately for the reconstitution of the Council; or

(b) subject to the previous approval of the Legislature of the State assume the administration of the area under the authority of such Council himself or place the administration of such area under the Commission appointed under the said paragraph or any other body considered suitable by him for a period not exceeding twelve months:

Provided that when an order under clause (a) of this paragraph has been made, the Governor may take the action referred to in clause (b) of this paragraph with regard to the administration of the area in question pending the reconstitution of the Council on fresh general election:

Provided further that no action shall be taken under clause (b) of this paragraph without giving the District or the Regional Council, as the case may be, an opportunity of placing its views before the Legislature of the State.

1. Paragraph 16 has been amended in its application to the States of Tripura and Mizoram by the Sixth Schedule to the Constitution (Amendment) Act, 1988 (67 of 1988) s. 2 (w.e.f. 16-12-1988), as under,—

‘(a) in sub-paragraph (1), the words “subject to the previous approval of the Legislature of the State” occurring in clause (b), and the second proviso shall be omitted;

(b) for sub-paragraph (3), the following sub-paragraph shall be substituted, namely:—

“(3) Every order made under sub-paragraph (1) or sub-paragraph (2) of this paragraph, along with the reasons therefor shall be laid before the Legislature of the State.”.’

2. Paragraph 16 renumbered as sub-paragraph (1) thereof by the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969), s. 74 and Fourth Sch. (w.e.f. 2-4-1970).

¹[(2) If at any time the Governor is satisfied that a situation has arisen in which the administration of an autonomous district or region cannot be carried on in accordance with the provisions of this Schedule, he may, by public notification, assume to himself all or any of the functions or powers vested in or exercisable by the District Council or, as the case may be, the Regional Council and declare that such functions or powers shall be exercisable by such person or authority as he may specify in this behalf, for a period not exceeding six months:

Provided that the Governor may by a further order or orders extend the operation of the initial order by a period not exceeding six months on each occasion.

(3) Every order made under sub-paragraph (2) of this paragraph with the reasons therefor shall be laid before the Legislature of the State and shall cease to operate at the expiration of thirty days from the date on which the State Legislature first sits after the issue of the order, unless, before the expiry of that period it has been approved by that State Legislature.]

217. Exclusion of areas from autonomous districts in forming constituencies in such districts.—For the purposes of elections to ³[the Legislative Assembly of Assam or Meghalaya] ⁴[or Tripura] ⁵[or Mizoram], the Governor may by order declare that any area within an autonomous district ⁶[in the State of Assam or Meghalaya ⁴[or Tripura] ⁵[or Mizoram], as the case may be,] shall not form part of any constituency to fill a seat or seats in the Assembly reserved for any such district but shall form part of a constituency to fill a seat or seats in the Assembly not so reserved to be specified in the order.

⁷[18.* * * * *]

1. Added by the Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969), s. 74 and Fourth Sch. (w.e.f. 2-4-1970).
2. Paragraph 17 has been amended in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2 (w.e.f. 7-9-2003) so as to insert the following proviso, namely:—
“Provided that nothing in this paragraph shall apply to the Bodoland Territorial Areas District.”.
3. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch., for “the Legislative Assembly of Assam” (w.e.f. 21-1-1972).
4. Ins. by the Constitution (Forty-ninth Amendment) Act, 1984, s. 4 (w.e.f. 1-4-1985).
5. Ins. by the State of Mizoram Act, 1986 (34 of 1986), s. 39 (w.e.f. 20-2-1987).
6. Ins. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch., for “the Legislative Assembly of Assam” (w.e.f. 21-1-1972).
7. Paragraph 18 omitted by s. 71(i) and Eighth Sch., *ibid.* (w.e.f. 21-1-1972).

¹19. **Transitional provisions.**—(1) As soon as possible after the commencement of this Constitution the Governor shall take steps for the constitution of a District Council for each autonomous district in the State under this Schedule and, until a District Council is so constituted for an autonomous district, the administration of such district shall be vested in the Governor and the following provisions shall apply to the administration of the areas within such district instead of the foregoing provisions of this Schedule, namely:—

(a) no Act of Parliament or of the Legislature of the State shall apply to any such area unless the Governor by public notification so directs; and the Governor in giving such a direction with respect to any Act may direct that the Act shall, in its application to the area or to any specified part thereof, have effect subject to such exceptions or modifications as he thinks fit;

(b) the Governor may make regulations for the peace and good government of any such area and any regulations so made may repeal or amend any Act of Parliament or of the Legislature of the State or any existing law which is for the time being applicable to such area.

(2) Any direction given by the Governor under clause (a) of sub-paragraph (1) of this paragraph may be given so as to have retrospective effect.

1. Paragraph 19 has been amended in its application to the State of Assam by the Sixth Sch. to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2 (w.e.f. 7-9-2003), so as to insert the following sub-paragraph after sub-paragraph (3), namely :—

‘(4) As soon as possible after the commencement of this Act and Interim Executive Council for Bodoland Territorial Areas District in Assam shall be formed by the Governor from amongst leaders of the Bodo movement, including the signatories to the Memorandum of Settlement, and shall provide adequate representation to the non-tribal communities in that area:

Provided that Interim Council shall be for a period of six months during which endeavour to hold the election to the Council shall be made.

Explanation.—For the purposes of this sub-paragraph, the expression “Memorandum of Settlement” means the Memorandum signed on the 10th day of February, 2003 between Government of India, Government of Assam and Bodo Liberation Tigers.’.

(3) All regulations made under clause (b) of sub-paragraph (1) of this paragraph shall be submitted forthwith to the President and, until assented to by him, shall have no effect.

¹[20. **Tribal areas.**—(1) The areas specified in Parts I, II ²[, IIA] and III of the table below shall respectively be the tribal areas within the State of Assam, the State of Meghalaya ²[, the State of Tripura] and the ³[State] of Mizoram.

(2) ⁴[Any reference in Part I, Part II or Part III of the table below] to any district shall be construed as a reference to the territories comprised within the autonomous district of that name existing immediately before the day appointed under clause (b) of section 2 of the North-Eastern Areas (Reorganisation) Act, 1971:

Provided that for the purposes of clauses (e) and (f) of sub-paragraph (1) of paragraph 3, paragraph 4, paragraph 5, paragraph 6, sub-paragraph (2), clauses (a), (b) and (d) of sub-paragraph (3) and sub-paragraph (4) of paragraph 8 and clause (d) of sub-paragraph (2) of paragraph 10 of this Schedule, no part of the area comprised within the municipality of Shillong shall be deemed to be within the ⁵[Khasi Hills District].

²[(3) The reference in Part IIA in the table below to the "Tripura Tribal Areas District" shall be construed as a reference to the territory comprising the tribal areas specified in the First Schedule to the Tripura Tribal Areas Autonomous District Council Act, 1979.]

1. Subs. by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 71(i) and Eighth Sch., for paragraphs 20 and 20A (w.e.f. 21-1-1972) and paragraph 20A further substituted by the Government of Union Territory (Amendment) Act, 1971 (83 of 1971) s. 13 (w.e.f. 29-4-1972).
2. Ins. by the Constitution (Forty-ninth Amendment) Act, 1984, s. 4 (w.e.f. 1-4-1985).
3. Subs. by the State of Mizoram Act, 1986 (34 of 1986), s. 39, for "Union territory" (w.e.f. 20-2-1987).
4. Subs. by the Constitution (Forty-ninth Amendment) Act, 1984, s. 4, for "any reference in the table below" (w.e.f. 1-4-1985).
5. Subs. by the Government of Meghalaya Notification No. DCA 31/72/11, dated the 14th June, 1973, Gazette of Meghalaya, Pt. VA, dated 23-6-1973, p. 200.

THE CONSTITUTION OF INDIA

(Sixth Schedule)

**TABLE
PART I**

1. The North Cachar Hills District.
2. ¹[The Karbi Anglong District.]
- ²[3. The Bodoland Territorial Areas District.]

PART II

- ³[1. Khasi Hills District.]
2. Jaintia Hills District.]
3. The Garo Hills District.

**⁴[PART II A]
Tripura Tribal Areas District]****Part III**

- ^{5*} * *
- ⁶[1. The Chakma District.]
 - ⁷[2. The Mara District.]
 3. The Lai District.]

⁸[20A. **Dissolution of the Mizo District Council.**—(1) Notwithstanding anything in this Schedule, the District Council of the Mizo District existing immediately before the prescribed date (hereinafter referred to as the Mizo District Council) shall stand dissolved and cease to exist.

-
1. Subs. by the Government of Assam Notification No. TAD/R/115/74/47, dated 14-10-1976 for "The Mikir Hills District".
 2. Ins. by the Sixth Schedule to the Constitution (Amendment) Act, 2003 (44 of 2003), s. 2 (w.e.f. 7-9-2003).
 3. Subs. by the Government of Meghalaya Notification No. DCA 31/72/11, dated the 14th June, 1973, Gazette of Meghalaya, Pt. VA, dated 23-6-1973, p. 200.
 4. Ins. by the Constitution (Forty-ninth Amendment) Act, 1984, s. 4 (w.e.f. 1-4-1985).
 5. The words "The Mizo District." omitted by the Government of Union Territories (Amendment) Act, 1971 (83 of 1971), s. 13 (w.e.f. 16-2-1972).
 6. Ins. by the Mizoram District Councils (Miscellaneous Provisions) Order, 1972, published in the Mizoram Gazette, 1972, dated the 5th May, 1972, Vol. I, Pt. II, p.17 (w.e.f. 29-4-1972).
 7. Subs. by the Sixth Schedule to the Constitution (Amendment) Act, 1988 (67 of 1988), s. 2, for serial numbers 2 and 3 and the entries relating thereto (w.e.f. 16-12-1988).
 8. Subs. by the North-Eastern Areas (Recognition) Act, 1971 (81 of 1971), s. 71(i) and Eight Sch. for paragraph 20 (w.e.f. 21-1-1972) and further subs. by the Government of Union Territory (Amendment) Act, 1971 (83 of 1971), s. 13 for paragraph 20A (w.e.f. 16-2-1972).

- (2) The Administrator of the Union territory of Mizoram may, by one or more orders, provide for all or any of the following matters, namely:—
- (a) the transfer, in whole or in part, of the assets, rights and liabilities of the Mizo District Council (including the rights and liabilities under any contract made by it) to the Union or to any other authority;
 - (b) the substitution of the Union or any other authority for the Mizo District Council, or the addition of the Union or any other authority, as a party to any legal proceedings to which the Mizo District Council is a party;
 - (c) the transfer or re-employment of any employees of the Mizo District Council to or by the Union or any other authority, the terms and conditions of service applicable to such employees after such transfer or re-employment;
 - (d) the continuance of any laws, made by the Mizo District Council and in force immediately before its dissolution, subject to such adaptations and modifications, whether by way of repeal or amendment, as the Administrator may make in this behalf, until such laws are altered, repealed or amended by a competent Legislature or other competent authority;
 - (e) such incidental, consequential and supplementary matters as the Administrator considers necessary.

Explanation.—In this paragraph and in paragraph 20B of this Schedule, the expression "prescribed date" means the date on which the Legislative Assembly of the Union territory of Mizoram is duly constituted under and in accordance with the provisions of the Government of Union Territories Act, 1963. (20 of 1963)]

¹[20B. **Autonomous regions in the Union territory of Mizoram to be autonomous districts and transitory provisions consequent thereto.**—(1) Notwithstanding anything in this Schedule,—

- (a) every autonomous region existing immediately before the prescribed date in the Union territory of Mizoram shall, on and from that date, be an autonomous district in that Union territory (hereafter referred to as the corresponding new district) and the Administrator thereof may, by one or more orders, direct that such consequential amendments as are necessary to give effect to the provisions of this clause shall be made in paragraph 20 of this Schedule (including Part III of the table appended to that paragraph) and thereupon the said paragraph and the said Part III shall be deemed to have been amended accordingly;

1. Sub. by the Government of Union Territory (Amendment) Act, 1971 (83 of 1971), s. 13 for paragraph 20A (w.e.f. 16-2-1972).

(b) every Regional Council of an autonomous region in the Union territory of Mizoram existing immediately before the prescribed date (hereafter referred to as the existing Regional Council) shall, on and from that date and until a District Council is duly constituted for the corresponding new district, be deemed to be the District Council of that district (hereafter referred to as the corresponding new District Council).

(2) Every member whether elected or nominated of an existing Regional Council shall be deemed to have been elected or, as the case may be, nominated to the corresponding new District Council and shall hold office until a District Council is duly constituted for the corresponding new district under this Schedule.

(3) Until rules are made under sub-paragraph (7) of paragraph 2 and sub-paragraph (4) of paragraph 4 of this Schedule by the corresponding new District Council, the rules made under the said provisions by the existing Regional Council and in force immediately before the prescribed date shall have effect in relation to the corresponding new District Council subject to such adaptations and modifications as may be made therein by the Administrator of the Union territory of Mizoram.

(4) The Administrator of the Union territory of Mizoram may, by one or more orders, provide for all or any of the following matters, namely:—

(a) the transfer in whole or in part of the assets, rights and liabilities of the existing Regional Council (including the rights and liabilities under any contract made by it) to the corresponding new District Council;

(b) the substitution of the corresponding new District Council for the existing Regional Council as a party to the legal proceedings to which the existing Regional Council is a party;

(c) the transfer or re-employment of any employees of the existing Regional Council to or by the corresponding new District Council, the terms and conditions of service applicable to such employees after such transfer or re-employment;

(d) the continuance of any laws made by the existing Regional Council and in force immediately before the prescribed date, subject to such adaptations and modifications, whether by way of repeal or amendment, as the Administrator may make in this behalf until such laws are altered, repealed or amended by a competent Legislature or other competent authority;

(e) such incidental, consequential and supplementary matters as the Administrator considers necessary.]

¹[20BA. **Exercise of discretionary powers by the Governor in the discharge of his functions.**—The Governor in the discharge of his functions under sub-paragraphs (2) and (3) of paragraph 1, sub-paragraphs (1), (6), sub-paragraph (6A) excluding the first proviso and sub-paragraph (7) of paragraph 2, sub-paragraph (3) of paragraph 3, sub-paragraph (4) of paragraph 4, paragraph 5, sub-paragraph (1) of paragraph 6, sub-paragraph (2) of paragraph 7, sub-paragraph (4) of paragraph 8, sub-paragraph (3) of paragraph 9, sub-paragraph (3) of paragraph 10, sub-paragraph (1) of paragraph 14, sub-paragraph (1) of paragraph 15 and sub-paragraphs (1) and (2) of paragraph 16 of this Schedule, shall, after consulting the Council of Ministers and the North Cachar Hills Autonomous Council or the Karbi Anglong Autonomous Council, as the case may be, take such action as he considers necessary in his discretion.]

²[20BB. **Exercise of discretionary powers by the Governor in the discharge of his functions.**—The Governor, in the discharge of his functions under sub-paragraphs (2) and (3) of paragraph 1, sub-paragraphs (1) and (7) of paragraph 2, sub-paragraph (3) of paragraph 3, sub-paragraph (4) of paragraph 4, paragraph 5, sub-paragraph (1) of paragraph 6, sub-paragraph (2) of paragraph 7, sub-paragraph (3) of paragraph 9, sub-paragraph (1) of paragraph 14, sub-paragraph (1) of paragraph 15 and sub-paragraphs (1) and (2) of paragraph 16 of this Schedule, shall, after consulting the Council of Ministers, and if he thinks it necessary, the District Council or the Regional Council concerned, take such action as he considers necessary in his discretion.]

-
1. Paragraph 20BA has been inserted in its application to the State of Assam by the Sixth Schedule to the Constitution (Amendment) Act, 1995 (42 of 1995), s. 2 (w.e.f. 12-9-1995).
 2. Paragraph 20BB has been inserted in its application to the States of Tripura and Mizoram, by the Sixth Schedule to the Constitution (Amendment) Act, 1988 (67 of 1988), s. 2 (w.e.f. 16-12-1988).

¹[20C. **Interpretation.**—Subject to any provision made in this behalf, the provisions of this Schedule shall, in their application to the Union territory of Mizoram, have effect—

(1) as if references to the Governor and Government of the State were references to the Administrator of the Union territory appointed under article 239, references to State (except in the expression "Government of the State") were references to the Union territory of Mizoram and references to the State Legislature were references to the Legislative Assembly of the Union territory of Mizoram;

(2) as if—

(a) in sub-paragraph (5) of paragraph 4, the provision for consultation with the Government of the State concerned had been omitted;

(b) in sub-paragraph (2) of paragraph 6, for the words "to which the executive power of the State extends", the words "with respect to which the Legislative Assembly of the Union territory of Mizoram has power to make laws" had been substituted;

(c) in paragraph 13, the words and figures "under article 202" had been omitted.]

21. **Amendment of the Schedule.**—(1) Parliament may from time to time by law amend by way of addition, variation or repeal any of the provisions of this Schedule and, when the Schedule is so amended, any reference to this Schedule in this Constitution shall be construed as a reference to such Schedule as so amended.

(2) No such law as is mentioned in sub-paragraph (1) of this paragraph shall be deemed to be an amendment of this Constitution for the purposes of article 368.

1. Sub. by the Government of Union Territories (Amendment) Act, 1971 (83 of 1971), s. 13 for paragraph 20A (w.e.f. 16-2-1972).

SEVENTH SCHEDULE

(Article 246)

List I—Union List

1. Defence of India and every part thereof including preparation for defence and all such acts as may be conducive in times of war to its prosecution and after its termination to effective demobilisation.
2. Naval, military and air forces; any other armed forces of the Union.
- ¹[2A. Deployment of any armed force of the Union or any other force subject to the control of the Union or any contingent or unit thereof in any State in aid of the civil power; powers, jurisdiction, privileges and liabilities of the members of such forces while on such deployment.]
3. Delimitation of cantonment areas, local self-government in such areas, the constitution and powers within such areas of cantonment authorities and the regulation of house accommodation (including the control of rents) in such areas.
4. Naval, military and air force works.
5. Arms, firearms, ammunition and explosives.
6. Atomic energy and mineral resources necessary for its production.
7. Industries declared by Parliament by law to be necessary for the purpose of defence or for the prosecution of war.
8. Central Bureau of Intelligence and Investigation.
9. Preventive detention for reasons connected with Defence, Foreign Affairs, or the security of India; persons subjected to such detention.
10. Foreign affairs; all matters which bring the Union into relation with any foreign country.
11. Diplomatic, consular and trade representation.
12. United Nations Organisation.
13. Participation in international conferences, associations and other bodies and implementing of decisions made thereat.
14. Entering into treaties and agreements with foreign countries and implementing of treaties, agreements and conventions with foreign countries.

1. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 57 (w.e.f. 3-1-1977).

15. War and peace.
16. Foreign jurisdiction.
17. Citizenship, naturalisation and aliens.
18. Extradition.
19. Admission into, and emigration and expulsion from, India; passports and visas.
20. Pilgrimages to places outside India.
21. Piracies and crimes committed on the high seas or in the air; offences against the law of nations committed on land or the high seas or in the air.
22. Railways.
23. Highways declared by or under law made by Parliament to be national highways.
24. Shipping and navigation on inland waterways, declared by Parliament by law to be national waterways, as regards mechanically propelled vessels; the rule of the road on such waterways.
25. Maritime shipping and navigation, including shipping and navigation on tidal waters; provision of education and training for the mercantile marine and regulation of such education and training provided by States and other agencies.
26. Lighthouses, including lightships, beacons and other provision for the safety of shipping and aircraft.
27. Ports declared by or under law made by Parliament or existing law to be major ports, including their delimitation, and the constitution and powers of port authorities therein.
28. Port quarantine, including hospitals connected therewith; seamen's and marine hospitals.
29. Airways; aircraft and air navigation; provision of aerodromes; regulation and organisation of air traffic and of aerodromes; provision for aeronautical education and training and regulation of such education and training provided by States and other agencies.
30. Carriage of passengers and goods by railway, sea or air, or by national waterways in mechanically propelled vessels.

31. Posts and telegraphs; telephones, wireless, broadcasting and other like forms of communication.

32. Property of the Union and the revenue therefrom, but as regards property situated in a State^{1***} subject to legislation by the State, save in so far as Parliament by law otherwise provides.

²[33* * * * *]

34. Courts of wards for the estates of Rulers of Indian States.

35. Public debt of the Union.

36. Currency, coinage and legal tender; foreign exchange.

37. Foreign loans.

38. Reserve Bank of India.

39. Post Office Savings Bank.

40. Lotteries organised by the Government of India or the Government of a State.

41. Trade and commerce with foreign countries; import and export across customs frontiers; definition of customs frontiers.

42. Inter-State trade and commerce.

43. Incorporation, regulation and winding up of trading corporations, including banking, insurance and financial corporations, but not including co-operative societies.

44. Incorporation, regulation and winding up of corporations, whether trading or not, with objects not confined to one State, but not including universities.

45. Banking.

46. Bills of exchange, cheques, promissory notes and other like instruments.

47. Insurance.

48. Stock exchanges and futures markets.

49. Patents, inventions and designs; copyright; trade-marks and merchandise marks.

1. The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. Entry 33 omitted by s. 26, *ibid.* (w.e.f. 1-11-1956).

50. Establishment of standards of weight and measure.
51. Establishment of standards of quality for goods to be exported out of India or transported from one State to another.
52. Industries, the control of which by the Union is declared by Parliament by law to be expedient in the public interest.
53. Regulation and development of oilfields and mineral oil resources; petroleum and petroleum products; other liquids and substances declared by Parliament by law to be dangerously inflammable.
54. Regulation of mines and mineral development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.
55. Regulation of labour and safety in mines and oilfields.
56. Regulation and development of inter-State rivers and river valleys to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.
57. Fishing and fisheries beyond territorial waters.
58. Manufacture, supply and distribution of salt by Union agencies; regulation and control of manufacture, supply and distribution of salt by other agencies.
59. Cultivation, manufacture, and sale for export, of opium.
60. Sanctioning of cinematograph films for exhibition.
61. Industrial disputes concerning Union employees.
62. The institutions known at the commencement of this Constitution as the National Library, the Indian Museum, the Imperial War Museum, the Victoria Memorial and the Indian War Memorial, and any other like institution financed by the Government of India wholly or in part and declared by Parliament by law to be an institution of national importance.
63. The institutions known at the commencement of this Constitution as the Benares Hindu University, the Aligarh Muslim University and the ¹[Delhi University; the University established in pursuance of article 371E;] any other institution declared by Parliament by law to be an institution of national importance.

1. Subs. by the Constitution (Thirty-second Amendment) Act, 1973, s. 4, for "Delhi University and" (w.e.f. 1-7-1974).

64. Institutions for scientific or technical education financed by the Government of India wholly or in part and declared by Parliament by law to be institutions of national importance.
65. Union agencies and institutions for—
 - (a) professional, vocational or technical training, including the training of police officers; or
 - (b) the promotion of special studies or research; or
 - (c) scientific or technical assistance in the investigation or detection of crime.
66. Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions.
67. Ancient and historical monuments and records, and archaeological sites and remains, ¹[declared by or under law made by Parliament] to be of national importance.
68. The Survey of India, the Geological, Botanical, Zoological and Anthropological Surveys of India; Meteorological organisations.
69. Census.
70. Union Public Service; All-India Services; Union Public Service Commission.
71. Union pensions, that is to say, pensions payable by the Government of India or out of the Consolidated Fund of India.
72. Elections to Parliament, to the Legislatures of States and to the offices of President and Vice-President; the Election Commission.
73. Salaries and allowances of members of Parliament, the Chairman and Deputy Chairman of the Council of States and the Speaker and Deputy Speaker of the House of the People.
74. Powers, privileges and immunities of each House of Parliament and of the members and the Committees of each House; enforcement of attendance of persons for giving evidence or producing documents before committees of Parliament or commissions appointed by Parliament.
75. Emoluments, allowances, privileges, and rights in respect of leave of absence, of the President and Governors; salaries and allowances of the Ministers for the Union; the salaries, allowances, and rights in respect of leave of absence and other conditions of service of the Comptroller and Auditor-General of India.

1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 27, for "declared by Parliament by law" (w.e.f. 1-11-1956).

76. Audit of the accounts of the Union and of the States.

77. Constitution, organisation, jurisdiction and powers of the Supreme Court (including contempt of such Court), and the fees taken therein; persons entitled to practise before the Supreme Court.

78. Constitution and organisation ¹[(including vacations)] of the High Courts except provisions as to officers and servants of High Courts; persons entitled to practise before the High Courts.

²[79. Extension of the jurisdiction of a High Court to, and exclusion of the jurisdiction of a High Court from, any Union territory.]

80. Extension of the powers and jurisdiction of members of a police force belonging to any State to any area outside that State, but not so as to enable the police of one State to exercise powers and jurisdiction in any area outside that State without the consent of the Government of the State in which such area is situated; extension of the powers and jurisdiction of members of a police force belonging to any State to railway areas outside that State.

81. Inter-State migration; inter-State quarantine.

82. Taxes on income other than agricultural income.

83. Duties of customs including export duties.

³[84. Duties of excise on the following goods manufactured or produced in India, namely:—

(a) petroleum crude;

(b) high speed diesel;

(c) motor spirit (commonly known as petrol);

(d) natural gas;

(e) aviation turbine fuel; and

(f) tobacco and tobacco products.]

85. Corporation tax.

1. Ins. by the Constitution (Fifteenth Amendment) Act, 1963, s. 12 (with retrospective effect).

2. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. for entry 79 (w.e.f. 1-11-1956).

3. Subs. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 17(a)(i) for entry 84 (w.e.f. 16-9-2016).

86. Taxes on the capital value of the assets, exclusive of agricultural land, of individuals and companies; taxes on the capital of companies.

87. Estate duty in respect of property other than agricultural land.

88. Duties in respect of succession to property other than agricultural land.

89. Terminal taxes on goods or passengers, carried by railway, sea or air; taxes on railway fares and freights.

90. Taxes other than stamp duties on transactions in stock exchanges and futures markets.

91. Rates of stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts.

¹[92. * * * * *]

²[92A. Taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce.]

³[92B. Taxes on the consignments of goods (whether the consignment is to the person making it or to any other person), where such consignment takes place in the course of inter-State trade or commerce.]

⁴[92C. * * * * *]

93. Offences against laws with respect to any of the matters in this List.

94. Inquires, surveys and statistics for the purpose of any of the matters in this List.

95. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List; admiralty jurisdiction.

96. Fees in respect of any of the matters in this List, but not including fees taken in any court.

97. Any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists.

1. Entry 92 omitted by the Constitution (One Hundred and First Amendment) Act, 2016, s. 17(a)(ii) (w.e.f. 16-9-2016).

2. Ins. by the Constitution (Sixth Amendment) Act, 1956, s. 2 (w.e.f. 11-9-1956).

3. Ins. by the Constitution (Forty-sixth Amendment) Act, 1982, s. 5 (w.e.f. 2-2-1983).

4. Entry 92C was ins. by the Constitution (Eighty-eighth Amendment) Act, 2003, s. 4 (which was not enforced) and omitted by the Constitution (One Hundred and First Amendment) Act, 2016, s. 17(a)(ii) (w.e.f. 16-9-2016).

List II—State List

1. Public order (but not including ¹[the use of any naval, military or air force or any other armed force of the Union or of any other force subject to the control of the Union or of any contingent or unit thereof] in aid of the civil power).
 - ²[2. Police (including railway and village police) subject to the provisions of entry 2A of List I.]
 3. ^{3***} Officers and servants of the High Court; procedure in rent and revenue courts; fees taken in all courts except the Supreme Court.
 4. Prisons, reformatories, Borstal institutions and other institutions of a like nature, and persons detained therein; arrangements with other States for the use of prisons and other institutions.
 5. Local government, that is to say, the constitution and powers of municipal corporations, improvement trusts, districts boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration.
 6. Public health and sanitation; hospitals and dispensaries.
 7. Pilgrimages, other than pilgrimages to places outside India.
 8. Intoxicating liquors, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors.
 9. Relief of the disabled and unemployable.
 10. Burials and burial grounds; cremations and cremation grounds.
- ⁴[11* * * * *]
12. Libraries, museums and other similar institutions controlled or financed by the State; ancient and historical monuments and records other than those ⁵[declared by or under law made by Parliament] to be of national importance.

-
1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 57, for certain words (w.e.f. 3-1-1977).
 2. Subs. by s. 57, for entry 2, *ibid.* (w.e.f. 3-1-1977).
 3. Certain words omitted by s. 57, *ibid.* (w.e.f. 3-1-1977).
 4. Entry 11 omitted by s. 57, *ibid.* (w.e.f. 3-1-1977).
 5. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 27, for "declared by Parliament by law" (w.e.f. 1-11-1956).

13. Communications, that is to say, roads, bridges, ferries, and other means of communication not specified in List I; municipal tramways; ropeways; inland waterways and traffic thereon subject to the provisions of List I and List III with regard to such waterways; vehicles other than mechanically propelled vehicles.

14. Agriculture, including agricultural education and research, protection against pests and prevention of plant diseases.

15. Preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice.

16. Pounds and the prevention of cattle trespass.

17. Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power subject to the provisions of entry 56 of List I.

18. Land, that is to say, rights in or over land, land tenures including the relation of landlord and tenant, and the collection of rents; transfer and alienation of agricultural land; land improvement and agricultural loans; colonization.

¹[19* * * *]

20* * * * *

21. Fisheries.

22. Courts of wards subject to the provisions of entry 34 of List I; encumbered and attached estates.

23. Regulation of mines and mineral development subject to the provisions of List I with respect to regulation and development under the control of the Union.

24. Industries subject to the provisions of²[entries 7 and 52] of List I.

25. Gas and gas-works.

26. Trade and commerce within the State subject to the provisions of entry 33 of List III.

1. Entries 19 and 20 omitted by the Constitution (Forty-second Amendment) Act, 1976, s. 57 (w.e.f. 3-1-1977).

2. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 28 for entry 52 (w.e.f. 1-11-1956).

27. Production, supply and distribution of goods subject to the provisions of entry 33 of List III.

28. Markets and fairs.

¹[29* * * * *]

30. Money-lending and money-lenders; relief of agricultural indebtedness.

31. Inns and inn-keepers.

32. Incorporation, regulation and winding up of corporations, other than those specified in List I, and universities; unincorporated trading, literary, scientific, religious and other societies and associations; co-operative societies.

33. Theatres and dramatic performances; cinemas subject to the provisions of entry 60 of List I; sports, entertainments and amusements.

34. Betting and gambling.

35. Works, lands and buildings vested in or in the possession of the State.

²[36* * * * *]

37. Elections to the Legislature of the State subject to the provisions of any law made by Parliament.

38. Salaries and allowances of members of the Legislature of the State, of the Speaker and Deputy Speaker of the Legislative Assembly and, if there is a Legislative Council, of the Chairman and Deputy Chairman thereof.

39. Powers, privileges and immunities of the Legislative Assembly and of the members and the committees thereof, and, if there is a Legislative Council, of that Council and of the members and the committees thereof; enforcement of attendance of persons for giving evidence or producing documents before committees of the Legislature of the State.

40. Salaries and allowances of Ministers for the State.

41. State public services; State Public Service Commission.

42. State pensions, that is to say, pensions payable by the State or out of the Consolidated Fund of the State.

43. Public debt of the State.

44. Treasure trove.

1. Entry 29 omitted by the Constitution (Forty-second Amendment) Act, 1976, s. 57 (w.e.f. 3-1-1977).

2. Entry 36 omitted by the Constitution (Seventh Amendment) Act, 1956, s. 26 (w.e.f. 1-11-1956).

45. Land revenue, including the assessment and collection of revenue, the maintenance of land records, survey for revenue purposes and records of rights, and alienation of revenues.

46. Taxes on agricultural income.

47. Duties in respect of succession to agricultural land.

48. Estate duty in respect of agricultural land.

49. Taxes on lands and buildings.

50. Taxes on mineral rights subject to any limitations imposed by Parliament by law relating to mineral development.

51. Duties of excise on the following goods manufactured or produced in the State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in India:—

(a) alcoholic liquors for human consumption;

(b) opium, Indian hemp and other narcotic drugs and narcotics,

but not including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry.

¹[52. * * * * *]

53. Taxes on the consumption or sale of electricity.

²[54. Taxes on the sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption, but not including sale in the course of inter-State trade or commerce or sale in the course of international trade or commerce of such goods.]

³[55. * * * * *]

56. Taxes on goods and passengers carried by road or on inland waterways.

1. Entry 52 omitted by the Constitution (One Hundred and First Amendment) Act, 2016, s. 17(b)(i) (w.e.f. 16-9-2016).

2. Subs. by the Constitution (Sixth Amendment) Act, 1956, s. 2 (w.e.f. 11-9-1956) and further subs. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 17(b)(ii) (w.e.f. 16-9-2016).

3. Entry 55 omitted by the Constitution (One Hundred and First Amendment) Act, 2016, s. 17(b)(iii) (w.e.f. 16-9-2016).

57. Taxes on vehicles, whether mechanically propelled or not, suitable for use on roads, including tramcars subject to the provisions of entry 35 of List III.
58. Taxes on animals and boats.
59. Tolls.
60. Taxes on professions, trades, callings and employments.
61. Capitation taxes.
- ¹[62. Taxes on entertainments and amusements to the extent levied and collected by a Panchayat or a Municipality or a Regional Council or a District Council.]
63. Rates of stamp duty in respect of documents other than those specified in the provisions of List I with regard to rates of stamp duty.
64. Offences against laws with respect to any of the matters in this List.
65. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List.
66. Fees in respect of any of the matters in this List, but not including fees taken in any court.

List III—Concurrent List

1. Criminal law, including all matters included in the Indian Penal Code at the commencement of this Constitution but excluding offences against laws with respect to any of the matters specified in List I or List II and excluding the use of naval, military or air forces or any other armed forces of the Union in aid of the civil power.
2. Criminal procedure, including all matters included in the Code of Criminal Procedure at the commencement of this Constitution.
3. Preventive detention for reasons connected with the security of a State, the maintenance of public order, or the maintenance of supplies and services essential to the community; persons subjected to such detention.
4. Removal from one State to another State of prisoners, accused persons and persons subjected to preventive detention for reasons specified in entry 3 of this List.

1. Subs. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 17(b)(iv), for entry 62 (w.e.f. 16-9-2016).

5. Marriage and divorce; infants and minors; adoption; wills, intestacy and succession; joint family and partition; all matters in respect of which parties in judicial proceedings were immediately before the commencement of this Constitution subject to their personal law.
6. Transfer of property other than agricultural land; registration of deeds and documents.
7. Contracts, including partnership, agency, contracts of carriage, and other special forms of contracts, but not including contracts relating to agricultural land.
8. Actionable wrongs.
9. Bankruptcy and insolvency.
10. Trust and Trustees.
11. Administrators-general and official trustees.
- ¹[11A. Administration of Justice; constitution and organisation of all courts, except the Supreme Court and the High Courts.]
12. Evidence and oaths; recognition of laws, public acts and records, and judicial proceedings.
13. Civil procedure, including all matters included in the Code of Civil Procedure at the commencement of this Constitution, limitation and arbitration.
14. Contempt of court, but not including contempt of the Supreme Court.
15. Vagrancy; nomadic and migratory tribes.
16. Lunacy and mental deficiency, including places for the reception or treatment of lunatics and mental deficient.
17. Prevention of cruelty to animals.
- ¹[17A. Forests.
- 17B. Protection of wild animals and birds.]
18. Adulteration of foodstuffs and other goods.
19. Drugs and poisons, subject to the provisions of entry 59 of List I with respect to opium.
20. Economic and social planning.
- ¹[20A. Population control and family planning.]

1. Entries 11A, 17A, 17B and 20A ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 57 (w.e.f. 3-1-1977).

- 21. Commercial and industrial monopolies, combines and trusts.
- 22. Trade unions; industrial and labour disputes.
- 23. Social security and social insurance; employment and unemployment.
- 24. Welfare of labour including conditions of work, provident funds, employers' liability, workmen's compensation, invalidity and old age pensions and maternity benefits.
- ¹[25. Education, including technical education, medical education and universities, subject to the provisions of entries 63, 64, 65 and 66 of List I; vocational and technical training of labour.]
- 26. Legal, medical and other professions.
- 27. Relief and rehabilitation of persons displaced from their original place of residence by reason of the setting up of the Dominions of India and Pakistan.
- 28. Charities and charitable institutions, charitable and religious endowments and religious institutions.
- 29. Prevention of the extension from one State to another of infectious or contagious diseases or pests affecting men, animals or plants.
- 30. Vital statistics including registration of births and deaths.
- 31. Ports other than those declared by or under law made by Parliament or existing law to be major ports.
- 32. Shipping and navigation on inland waterways as regards mechanically propelled vessels, and the rule of the road on such waterways, and the carriage of passengers and goods on inland waterways subject to the provisions of List I with respect to national waterways.
- ²[33. Trade and commerce in, and the production, supply and distribution of,—
 - (a) the products of any industry where the control of such industry by the Union is declared by Parliament by law to be expedient in the public interest, and imported goods of the same kind as such products;
 - (b) foodstuffs, including edible oilseeds and oils;
 - (c) cattle fodder, including oilcakes and other concentrates;
 - (d) raw cotton, whether ginned or unginned, and cotton seed; and
 - (e) raw jute.]

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 57 (w.e.f. 3-1-1977).
 2. Subs. by the Constitution (Third Amendment) Act, 1954, s. 2 for entry 33 (w.e.f. 22-2-1955).

¹[33A. Weights and measures except establishment of standards.]

34. Price control.
35. Mechanically propelled vehicles including the principles on which taxes on such vehicles are to be levied.
36. Factories
37. Boilers.
38. Electricity.
39. Newspapers, books and printing presses.
40. Archaeological sites and remains other than those ²[declared by or under law made by Parliament] to be of national importance.
41. Custody, management and disposal of property (including agricultural land) declared by law to be evacuee property.
³[42. Acquisition and requisitioning of property.]
43. Recovery in a State of claims in respect of taxes and other public demands, including arrears of land-revenue and sums recoverable as such arrears, arising outside that State.
44. Stamp duties other than duties or fees collected by means of judicial stamps, but not including rates of stamp duty.
45. Inquiries and statistics for the purposes of any of the matters specified in List II or List III.
46. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List.
47. Fees in respect of any of the matters in this List, but not including fees taken in any court.

1. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 57 (w.e.f. 3-1-1977).

2. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 27, for "declared by Parliament by law" (w.e.f. 1-11-1956).

3. Subs. by s. 26, *ibid.* for entry 42 (w.e.f. 1-11-1956).

EIGHTH SCHEDULE
[Articles 344(1) and 351]
Languages

1. Assamese.
2. Bengali.
- ¹[3. Bodo.
4. Dogri.]
- ²[5.] Gujarati.
- ³[6.] Hindi.
- ³[7.] Kannada.
- ³[8.] Kashmiri.
- ⁴[³[9.] Konkani.]
- ¹[10. Maithili.]
- ⁵[11.] Malayalam.
- ⁴[⁶[12.] Manipuri.]
- ⁶[13.] Marathi.
- ⁴[⁶[14.] Nepali.]
- ⁶[15.] ⁷[Odia].
- ⁶[16.] Punjabi.
- ⁶[17.] Sanskrit.

-
1. Ins. by the Constitution (Ninety-second Amendment) Act, 2003, s. 2 (w.e.f. 7-1-2004).
 2. Entry 3 renumbered as entry 5 by s. 2, *ibid.* (w.e.f. 7-1-2004).
 3. Entries 4 to 7 renumbered as entries 6 to 9 by s. 2, *ibid.* (w.e.f. 7-1-2004).
 4. Ins. by the Constitution (Seventy-first Amendment) Act, 1992, s. 2 (w.e.f. 31-8-1992).
 5. Entry 8 renumbered as entry 11 by the Constitution (Ninety-second Amendment) Act, 2003, s. 2 (w.e.f. 7-1-2004).
 6. Entries 9 to 14 renumbered as entries 12 to 17 by s. 2, *ibid.* (w.e.f. 7-1-2004).
 7. Subs. by the Constitution (Ninety-sixth Amendment) Act, 2011, s. 2, for "Oriya" (w.e.f. 23-9-2011).

¹[18. Santhali.]

²[³[19.] Sindhi.]

⁴[20.] Tamil.

⁴[21.] Telugu.

⁴[22.] Urdu.

-
1. Ins. by the Constitution (Ninety-second Amendment) Act, 2003, s. 2 (w.e.f. 7-1-2004).
 2. Added by the Constitution (Twenty-first Amendment) Act, 1967, s. 2 (w.e.f. 10-4-1967).
 3. Entry 15 renumbered as entry 19 by the Constitution (Ninety-second Amendment) Act, 2003, s. 2 (w.e.f. 7-1-2004).
 4. Entries 16 to 18 renumbered as entries 20 to 22 by s. 2, *ibid.* (w.e.f. 7-1-2004).

¹[NINTH SCHEDULE

(Article 31B)

1. The Bihar Land Reforms Act, 1950 (Bihar Act XXX of 1950).
2. The Bombay Tenancy and Agricultural Lands Act, 1948. (Bombay Act LXVII of 1948).
3. The Bombay Maleki Tenure Abolition Act, 1949 (Bombay Act LXI of 1949).
4. The Bombay Taluqdari Tenure Abolition Act, 1949. (Bombay Act LXII of 1949).
5. The Panch Mahals Mehwassi Tenure Abolition Act, 1949. (Bombay Act LXIII of 1949).
6. The Bombay Khoti Abolition Act, 1950 (Bombay Act VI of 1950).
7. The Bombay Paragana and Kulkarni Watan Abolition Act, 1950. (Bombay Act LX of 1950).
8. The Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950 (Madhya Pradesh Act I of 1951).
9. The Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Madras Act XXVI of 1948).
10. The Madras Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1950 (Madras Act I of 1950).
11. The Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (Uttar Pradesh Act I of 1951).
12. The Hyderabad (Abolition of Jagirs) Regulation, 1358F (No. LXIX of 1358, Fasli).
13. The Hyderabad Jagirs (Commutation) Regulation, 1359F (No. XXV of 1359, Fasli).]- ²[14. The Bihar Displaced Persons Rehabilitation (Acquisition of Land) Act, 1950 (Bihar Act XXXVIII of 1950).
- 15. The United Provinces Land Acquisition (Rehabilitation of Refugees) Act, 1948 (U.P. Act XXVI of 1948).
- 16. The Resettlement of Displaced Persons (Land Acquisition) Act, 1948 (Act LX of 1948).
- 17. Sections 52A to 52G of the Insurance Act, 1938 (Act IV of 1938), as inserted by section 42 of the Insurance (Amendment) Act, 1950 (Act XLVII of 1950).
- 18. The Railway Companies (Emergency Provisions) Act, 1951 (Act LI of 1951).

1. Ninth Schedule (entries 1 to 13) added by the Constitution (First Amendment) Act, 1951, s. 14 (w.e.f. 18-6-1951).

2. Ninth Schedule (entries 14 to 20) added by the Constitution (Fourth Amendment) Act, 1955, s. 5 (w.e.f. 27-4-1955).

19. Chapter III-A of the Industries (Development and Regulation) Act, 1951 (Act LXV of 1951), as inserted by section 13 of the Industries (Development and Regulation) Amendment Act, 1953 (Act XXVI of 1953).

20. The West Bengal Land Development and Planning Act, 1948 (West Bengal Act XXI of 1948), as amended by West Bengal Act XXIX of 1951.]

¹[21. The Andhra Pradesh Ceiling on Agricultural Holdings Act, 1961 (Andhra Pradesh Act X of 1961).

22. The Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands (Validation) Act, 1961 (Andhra Pradesh Act XXI of 1961).

23. The Andhra Pradesh (Telangana Area) Ijara and Kowli Land Cancellation of Irregular Pattas and Abolition of Concessional Assessment Act, 1961 (Andhra Pradesh Act XXXVI of 1961).

24. The Assam State Acquisition of Lands belonging to Religious or Charitable Institution of Public Nature Act, 1959 (Assam Act IX of 1961).

25. The Bihar Land Reforms (Amendment) Act, 1953 (Bihar Act XX of 1954).

26. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (Bihar Act XII of 1962), except section 28 of this Act.

27. The Bombay Taluqdari Tenure Abolition (Amendment) Act, 1954 (Bombay Act I of 1955).

28. The Bombay Taluqdari Tenure Abolition (Amendment) Act, 1957 (Bombay Act XVIII of 1958).

29. The Bombay Inams (Kutch Area) Abolition Act, 1958 (Bombay Act XCIV of 1958).

30. The Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1960 (Gujarat Act XVI of 1960).

31. The Gujarat Agricultural Lands Ceiling Act, 1960 (Gujarat Act XXVI of 1961).

32. The Sagbara and Mehwassi Estates (Proprietary Rights Abolition, etc.) Regulation, 1962 (Gujarat Regulation I of 1962).

1. Entries 21 to 64 and *Explanation* added by the Constitution (Seventeenth Amendment) Act, 1964, s. 3 (w.e.f. 20-6-1964).

33. The Gujarat Surviving Alienations Abolition Act, 1963 (Gujarat Act XXXIII of 1963), except in so far as this Act relates to an alienation referred to in sub-clause (d) of clause (3) of section 2 thereof.
34. The Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961 (Maharashtra Act XXVII of 1961).
35. The Hyderabad Tenancy and Agricultural Lands (Re-enactment, Validation and Further Amendment) Act, 1961 (Maharashtra Act XLV of 1961).
36. The Hyderabad Tenancy and Agricultural Lands Act, 1950 (Hyderabad Act XXI of 1950).
37. The Jenmikaram Payment (Abolition) Act, 1960 (Kerala Act III of 1961).
38. The Kerala Land Tax Act, 1961 (Kerala Act XIII of 1961).
39. The Kerala Land Reforms Act, 1963 (Kerala Act I of 1964).
40. The Madhya Pradesh Land Revenue Code, 1959 (Madhya Pradesh Act XX of 1959).
41. The Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960 (Madhya Pradesh Act XX of 1960).
42. The Madras Cultivating Tenants Protection Act, 1955 (Madras Act XXV of 1955).
43. The Madras Cultivating Tenants (Payment of Fair Rent) Act, 1956 (Madras Act XXIV of 1956).
44. The Madras Occupants of Kudiyiruppu (Protection from Eviction) Act, 1961 (Madras Act XXXVIII of 1961).
45. The Madras Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961 (Madras Act LVII of 1961).
46. The Madras Land Reforms (Fixation of Ceiling on Land) Act, 1961 (Madras Act LVIII of 1961).
47. The Mysore Tenancy Act, 1952 (Mysore Act XIII of 1952).
48. The Coorg Tenants Act, 1957 (Mysore Act XIV of 1957).
49. The Mysore Village Offices Abolition Act, 1961 (Mysore Act XIV of 1961).
50. The Hyderabad Tenancy and Agricultural Lands (Validation) Act, 1961 (Mysore Act XXXVI of 1961).
51. The Mysore Land Reforms Act, 1961 (Mysore Act X of 1962).

- 52. The Orissa Land Reforms Act, 1960 (Orissa Act XVI of 1960).
- 53. The Orissa Merged Territories (Village Offices Abolition) Act, 1963 (Orissa Act X of 1963).
- 54. The Punjab Security of Land Tenures Act, 1953 (Punjab Act X of 1953).
- 55. The Rajasthan Tenancy Act, 1955 (Rajasthan Act III of 1955).
- 56. The Rajasthan Zamindari and Biswedari Abolition Act, 1959 (Rajasthan Act VIII of 1959).
- 57. The Kumaun and Uttarakhand Zamindari Abolition and Land Reforms Act, 1960 (Uttar Pradesh Act XVII of 1960).
- 58. The Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960 (Uttar Pradesh Act I of 1961).
- 59. The West Bengal Estates Acquisition Act, 1953 (West Bengal Act I of 1954).
- 60. The West Bengal Land Reforms Act, 1955 (West Bengal Act X of 1956).
- 61. The Delhi Land Reforms Act, 1954 (Delhi Act VIII of 1954).
- 62. The Delhi Land Holdings (Ceiling) Act, 1960 (Central Act 24 of 1960).
- 63. The Manipur Land Revenue and Land Reforms Act, 1960 (Central Act 33 of 1960).
- 64. The Tripura Land Revenue and Land Reforms Act, 1960 (Central Act 43 of 1960).
- ¹[65. The Kerala Land Reforms (Amendment) Act, 1969 (Kerala Act 35 of 1969).]
- 66. The Kerala Land Reforms (Amendment) Act, 1971 (Kerala Act 25 of 1971).]
- ²[67. The Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (Andhra Pradesh Act 1 of 1973).]
- 68. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1972 (Bihar Act I of 1973).

1. Entries 65 and 66 ins. by the Constitution (Twenty-ninth Amendment) Act, 1972, s. 2 (w.e.f. 9-6-1972).

2. Entries 67 and 86 ins.. by the Constitution (Thirty-fourth Amendment) Act, 1974, s. 2 (w.e.f. 7-9-1974).

69. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1973 (Bihar Act IX of 1973).
70. The Bihar Land Reforms (Amendment) Act, 1972 (Bihar Act V of 1972).
71. The Gujarat Agricultural Lands Ceiling (Amendment) Act, 1972 (Gujarat Act 2 of 1974).
72. The Haryana Ceiling on Land Holdings Act, 1972 (Haryana Act 26 of 1972).
73. The Himachal Pradesh Ceiling on Land Holdings Act, 1972 (Himachal Pradesh Act 19 of 1973).
74. The Kerala Land Reforms (Amendment) Act, 1972 (Kerala Act 17 of 1972).
75. The Madhya Pradesh Ceiling on Agricultural Holdings (Amendment) Act, 1972 (Madhya Pradesh Act 12 of 1974).
76. The Madhya Pradesh Ceiling on Agricultural Holdings (Second Amendment) Act, 1972 (Madhya Pradesh Act 13 of 1974).
77. The Mysore Land Reforms (Amendment) Act, 1973 (Karnataka Act 1 of 1974).
78. The Punjab Land Reforms Act, 1972 (Punjab Act 10 of 1973).
79. The Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973 (Rajasthan Act 11 of 1973).
80. The Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Act, 1969 (Tamil Nadu Act 24 of 1969).
81. The West Bengal Land Reforms (Amendment) Act, 1972 (West Bengal Act XII of 1972).
82. The West Bengal Estates Acquisition (Amendment) Act, 1964 (West Bengal Act XXII of 1964).
83. The West Bengal Estates Acquisition (Second Amendment) Act, 1973 (West Bengal Act XXXIII of 1973).
84. The Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1972 (Gujarat Act 5 of 1973).
85. The Orissa Land Reforms (Amendment) Act, 1974 (Orissa Act 9 of 1974).
86. The Tripura Land Revenue and Land Reforms (Second Amendment) Act, 1974 (Tripura Act 7 of 1974).]

¹[287* * * *]

88. The Industries (Development and Regulation) Act, 1951 (Central Act 65 of 1951).

89. The Requisitioning and Acquisition of Immovable Property Act, 1952 (Central Act 30 of 1952).

90. The Mines and Minerals (Regulation and Development) Act, 1957 (Central Act 67 of 1957).

*91. The Monopolies and Restrictive Trade Practices Act, 1969 (Central Act 54 of 1969).

²[92* * * *]

93. The Coking Coal Mines (Emergency Provisions) Act, 1971 (Central Act 64 of 1971).

94. The Coking Coal Mines (Nationalisation) Act, 1972 (Central Act 36 of 1972).

95. The General Insurance Business (Nationalisation) Act, 1972 (Central Act 57 of 1972).

96. The Indian Copper Corporation (Acquisition of Undertaking) Act, 1972 (Central Act 58 of 1972).

97. The Sick Textile Undertakings (Taking Over of Management) Act, 1972 (Central Act 72 of 1972).

98. The Coal Mines (Taking Over of Management) Act, 1973 (Central Act 15 of 1973).

99. The Coal Mines (Nationalisation) Act, 1973 (Central Act 26 of 1973).

**100. The Foreign Exchange Regulation Act, 1973 (Central Act 46 of 1973).

101. The Alcock Ashdown Company Limited (Acquisition of Undertakings) Act, 1973 (Central Act 56 of 1973).

1. Entries 87 to 124 ins. by the Constitution (Thirty-ninth Amendment) Act, 1975, s. 5 (w.e.f. 10-8-1975).

2. Entries 87 and 92 omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 44 (w.e.f. 20-6-1979).

* Rep. by the Competition Act, 2002 (12 of 2003) s. 66 (w.e.f. 1-9-2009).

** Rep. by the Foreign Exchange Management Act, 1999 (42 of 1999), s. 49 (w.e.f. 1-6-2000).

102. The Coal Mines (Conservation and Development) Act, 1974 (Central Act 28 of 1974).
103. The Additional Emoluments (Compulsory Deposit) Act, 1974 (Central Act 37 of 1974).
104. The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (Central Act 52 of 1974).
105. The Sick Textile Undertakings (Nationalisation) Act, 1974 (Central Act 57 of 1974).
106. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 1964 (Maharashtra Act XVI of 1965).
107. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 1965 (Maharashtra Act XXXII of 1965).
108. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 1968 (Maharashtra Act XVI of 1968).
109. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Second Amendment) Act, 1968 (Maharashtra Act XXXIII of 1968).
110. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 1969 (Maharashtra Act XXXVII of 1969).
111. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Second Amendment) Act, 1969 (Maharashtra Act XXXVIII of 1969).
112. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 1970 (Maharashtra Act XXVII of 1970).
113. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 1972 (Maharashtra Act XIII of 1972).
114. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 1973 (Maharashtra Act L of 1973).
115. The Orissa Land Reforms (Amendment) Act, 1965 (Orissa Act 13 of 1965).
116. The Orissa Land Reforms (Amendment) Act, 1966 (Orissa Act 8 of 1967).
117. The Orissa Land Reforms (Amendment) Act, 1967 (Orissa Act 13 of 1967).

118. The Orissa Land Reforms (Amendment) Act, 1969 (Orissa Act 13 of 1969).

119. The Orissa Land Reforms (Amendment) Act, 1970 (Orissa Act 18 of 1970).

120. The Uttar Pradesh Imposition of Ceiling on Land Holdings (Amendment) Act, 1972 (Uttar Pradesh Act 18 of 1973).

121. The Uttar Pradesh Imposition of Ceiling on Land Holdings (Amendment) Act, 1974 (Uttar Pradesh Act 2 of 1975).

122. The Tripura Land Revenue and Land Reforms (Third Amendment) Act, 1975 (Tripura Act 3 of 1975).

123. The Dadra and Nagar Haveli Land Reforms Regulation, 1971 (3 of 1971).

124. The Dadra and Nagar Haveli Land Reforms (Amendment) Regulation, 1973 (5 of 1973).]

¹[125. Section 66A and Chapter IVA of the Motor Vehicles Act, 1939* (Central Act 4 of 1939).

126. The Essential Commodities Act, 1955 (Central Act 10 of 1955).

127. The Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (Central Act 13 of 1976).

128. The Bonded Labour System (Abolition) Act, 1976 (Central Act 19 of 1976).

129. The Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Act, 1976 (Central Act 20 of 1976).

²130* * * *

131. The Levy Sugar Price Equalisation Fund Act, 1976 (Central Act 31 of 1976).

132. The Urban Land (Ceiling and Regulation) Act, 1976 (Central Act 33 of 1976).

1. Entries 125 to 188 ins. by the Constitution (Fortieth Amendment) Act, 1976, s. 3 (w.e.f. 27-5-1976).

* See now the relevant provisions of the Motor Vehicles Act, 1988 (59 of 1988).

2. Entry 130 omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 44 (w.e.f. 20-6-1979).

133. The Departmentalisation of Union Accounts (Transfer of Personnel) Act, 1976 (Central Act 59 of 1976).
134. The Assam Fixation of Ceiling on Land Holdings Act, 1956 (Assam Act I of 1957).
135. The Bombay Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958 (Bombay Act XCIX of 1958).
136. The Gujarat Private Forests (Acquisition) Act, 1972 (Gujarat Act 14 of 1973).
137. The Haryana Ceiling on Land Holdings (Amendment) Act, 1976 (Haryana Act 17 of 1976).
138. The Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Himachal Pradesh Act 8 of 1974).
139. The Himachal Pradesh Village Common Lands Vesting and Utilisation Act, 1974 (Himachal Pradesh Act 18 of 1974).
140. The Karnataka Land Reforms (Second Amendment and Miscellaneous Provisions) Act, 1974 (Karnataka Act 31 of 1974).
141. The Karnataka Land Reforms (Second Amendment) Act, 1976 (Karnataka Act 27 of 1976).
142. The Kerala Prevention of Eviction Act, 1966 (Kerala Act 12 of 1966).
143. The Thiruppuvaram Payment (Abolition) Act, 1969 (Kerala Act 19 of 1969).
144. The Sreepadam Lands Enfranchisement Act, 1969 (Kerala Act 20 of 1969).
145. The Sree Pandaravaka Lands (Vesting and Enfranchisement) Act, 1971 (Kerala Act 20 of 1971).
146. The Kerala Private Forests (Vesting and Assignment) Act, 1971 (Kerala Act 26 of 1971).
147. The Kerala Agricultural Workers Act, 1974 (Kerala Act 18 of 1974).
148. The Kerala Cashew Factories (Acquisition) Act, 1974 (Kerala Act 29 of 1974).
149. The Kerala Chitties Act, 1975 (Kerala Act 23 of 1975).
150. The Kerala Scheduled Tribes (Restriction on Transfer of Lands and Restoration of Alienated Lands) Act, 1975 (Kerala Act 31 of 1975).

151. The Kerala Land Reforms (Amendment) Act, 1976 (Kerala Act 15 of 1976).
152. The Kanam Tenancy Abolition Act, 1976 (Kerala Act 16 of 1976).
153. The Madhya Pradesh Ceiling on Agricultural Holdings (Amendment) Act, 1974 (Madhya Pradesh Act 20 of 1974).
154. The Madhya Pradesh Ceiling on Agricultural Holdings (Amendment) Act, 1975 (Madhya Pradesh Act 2 of 1976).
155. The West Khandesh Mehwassi Estates (Proprietary Rights Abolition, etc.) Regulation, 1961 (Maharashtra Regulation 1 of 1962).
156. The Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974 (Maharashtra Act XIV of 1975).
157. The Maharashtra Agricultural Lands (Lowering of Ceiling on Holdings) and (Amendment) Act, 1972 (Maharashtra Act XXI of 1975).
158. The Maharashtra Private Forest (Acquisition) Act, 1975 (Maharashtra Act XXIX of 1975).
159. The Maharashtra Agricultural Lands (Lowering of Ceiling on Holdings) and (Amendment) Amendment Act, 1975 (Maharashtra Act XLVII of 1975).
160. The Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 1975 (Maharashtra Act II of 1976).
161. The Orissa Estates Abolition Act, 1951 (Orissa Act I of 1952).
162. The Rajasthan Colonisation Act, 1954 (Rajasthan Act XXVII of 1954).
163. The Rajasthan Land Reforms and Acquisition of Landowners' Estates Act, 1963 (Rajasthan Act 11 of 1964).
164. The Rajasthan Imposition of Ceiling on Agricultural Holdings (Amendment) Act, 1976 (Rajasthan Act 8 of 1976).
165. The Rajasthan Tenancy (Amendment) Act, 1976 (Rajasthan Act 12 of 1976).
166. The Tamil Nadu Land Reforms (Reduction of Ceiling on Land) Act, 1970 (Tamil Nadu Act 17 of 1970).
167. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1971 (Tamil Nadu Act 41 of 1971).

168. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1972 (Tamil Nadu Act 10 of 1972).
169. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Second Amendment Act, 1972 (Tamil Nadu Act 20 of 1972).
170. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Third Amendment Act, 1972 (Tamil Nadu Act 37 of 1972).
171. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Fourth Amendment Act, 1972 (Tamil Nadu Act 39 of 1972).
172. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Sixth Amendment Act, 1972 (Tamil Nadu Act 7 of 1974).
173. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Fifth Amendment Act, 1972 (Tamil Nadu Act 10 of 1974).
174. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1974 (Tamil Nadu Act 15 of 1974).
175. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Third Amendment Act, 1974 (Tamil Nadu Act 30 of 1974).
176. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Second Amendment Act, 1974 (Tamil Nadu Act 32 of 1974).
177. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1975 (Tamil Nadu Act 11 of 1975).
178. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Second Amendment Act, 1975 (Tamil Nadu Act 21 of 1975).
179. Amendments made to the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (Uttar Pradesh Act I of 1951) by the Uttar Pradesh Land Laws (Amendment) Act, 1971 (Uttar Pradesh Act 21 of 1971) and the Uttar Pradesh Land Laws (Amendment) Act, 1974 (Uttar Pradesh Act 34 of 1974).
180. The Uttar Pradesh Imposition of Ceiling on Land Holdings (Amendment) Act, 1976 (Uttar Pradesh Act 20 of 1976).
181. The West Bengal Land Reforms (Second Amendment) Act, 1972 (West Bengal Act XXVIII of 1972).
182. The West Bengal Restoration of Alienated Land Act, 1973 (West Bengal Act XXIII of 1973).

183. The West Bengal Land Reforms (Amendment) Act, 1974 (West Bengal Act XXXIII of 1974).

184. The West Bengal Land Reforms (Amendment) Act, 1975 (West Bengal Act XXIII of 1975).

185. The West Bengal Land Reforms (Amendment) Act, 1976 (West Bengal Act XII of 1976).

186. The Delhi Land Holdings (Ceiling) Amendment Act, 1976 (Central Act 15 of 1976).

187. The Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975 (Goa, Daman and Diu Act 1 of 1976).

188. The Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 (Pondicherry Act 9 of 1974).]

¹[189. The Assam (Temporarily Settled Areas) Tenancy Act, 1971 (Assam Act XXIII of 1971).

190. The Assam (Temporarily Settled Areas) Tenancy (Amendment) Act, 1974 (Assam Act XVIII of 1974).

191. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Amending Act, 1974 (Bihar Act 13 of 1975).

192. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1976 (Bihar Act 22 of 1976).

193. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1978 (Bihar Act VII of 1978).

194. The Land Acquisition (Bihar Amendment) Act, 1979 (Bihar Act 2 of 1980).

195. The Haryana Ceiling on Land Holdings (Amendment) Act, 1977 (Haryana Act 14 of 1977).

196. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1978 (Tamil Nadu Act 25 of 1978).

197. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1979 (Tamil Nadu Act 11 of 1979).

1. Entries 189 to 202 were ins. by the Constitution (Forty-seventh Amendment) Act, 1984, s. 2 (w.e.f. 26-8-1984).

198. The Uttar Pradesh Zamindari Abolition Laws (Amendment) Act, 1978 (Uttar Pradesh Act 15 of 1978).

199. The West Bengal Restoration of Alienated Land (Amendment) Act, 1978 (West Bengal Act XXIV of 1978).

200. The West Bengal Restoration of Alienated Land (Amendment) Act, 1980 (West Bengal Act LVI of 1980).

201. The Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Goa, Daman and Diu Act 7 of 1964).

202. The Goa, Daman and Diu Agricultural Tenancy (Fifth Amendment) Act, 1976 (Goa, Daman and Diu Act 17 of 1976).]

¹[203. The Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 (Andhra Pradesh Regulation 1 of 1959).

204. The Andhra Pradesh Scheduled Areas Laws (Extension and Amendment) Regulation, 1963 (Andhra Pradesh Regulation 2 of 1963).

205. The Andhra Pradesh Scheduled Areas Land Transfer (Amendment) Regulation, 1970 (Andhra Pradesh Regulation 1 of 1970).

206. The Andhra Pradesh Scheduled Areas Land Transfer (Amendment) Regulation, 1971 (Andhra Pradesh Regulation 1 of 1971).

207. The Andhra Pradesh Scheduled Areas Land Transfer (Amendment) Regulation, 1978 (Andhra Pradesh Regulation 1 of 1978).

208. The Bihar Tenancy Act, 1885 (Bihar Act 8 of 1885).

209. The Chota Nagpur Tenancy Act, 1908 (Bengal Act 6 of 1908) (Chapter VIII—sections 46, 47, 48, 48A and 49; Chapter X—sections 71, 71A and 71B; and Chapter XVIII—sections 240, 241 and 242).

210. The Santhal Parganas Tenancy (Supplementary Provisions) Act, 1949 (Bihar Act 14 of 1949) except section 53.

211. The Bihar Scheduled Areas Regulation, 1969 (Bihar Regulation 1 of 1969).

212. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1982 (Bihar Act 55 of 1982).

1. Entries 203 to 257 were ins. by the Constitution (Sixty-sixth Amendment) Act, 1990, s. 2 (w.e.f. 7-6-1990).

213. The Gujarat Devasthan Inams Abolition Act, 1969 (Gujarat Act 16 of 1969).
214. The Gujarat Tenancy Laws (Amendment) Act, 1976 (Gujarat Act 37 of 1976).
215. The Gujarat Agricultural Lands Ceiling (Amendment) Act, 1976 (President's Act 43 of 1976).
216. The Gujarat Devasthan Inams Abolition (Amendment) Act, 1977 (Gujarat Act 27 of 1977).
217. The Gujarat Tenancy Laws (Amendment) Act, 1977 (Gujarat Act 30 of 1977).
218. The Bombay Land Revenue (Gujarat Second Amendment) Act, 1980 (Gujarat Act 37 of 1980).
219. The Bombay Land Revenue Code and Land Tenure Abolition Laws (Gujarat Amendment) Act, 1982 (Gujarat Act 8 of 1982).
220. The Himachal Pradesh Transfer of Land (Regulation) Act, 1968 (Himachal Pradesh Act 15 of 1969).
221. The Himachal Pradesh Transfer of Land (Regulation) (Amendment) Act, 1986 (Himachal Pradesh Act 16 of 1986).
222. The Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 (Karnataka Act 2 of 1979).
223. The Kerala Land Reforms (Amendment) Act, 1978 (Kerala Act 13 of 1978).
224. The Kerala Land Reforms (Amendment) Act, 1981 (Kerala Act 19 of 1981).
225. The Madhya Pradesh Land Revenue Code (Third Amendment) Act, 1976 (Madhya Pradesh Act 61 of 1976).
226. The Madhya Pradesh Land Revenue Code (Amendment) Act, 1980 (Madhya Pradesh Act 15 of 1980).
227. The Madhya Pradesh Akrishik Jot Uchchatam Seema Adhiniyam, 1981 (Madhya Pradesh Act 11 of 1981).
228. The Madhya Pradesh Ceiling on Agricultural Holdings (Second Amendment) Act, 1976 (Madhya Pradesh Act 1 of 1984).
229. The Madhya Pradesh Ceiling on Agricultural Holdings (Amendment) Act, 1984 (Madhya Pradesh Act 14 of 1984).

230. The Madhya Pradesh Ceiling on Agricultural Holdings (Amendment) Act, 1989 (Madhya Pradesh Act 8 of 1989).
231. The Maharashtra Land Revenue Code, 1966 (Maharashtra Act 41 of 1966), sections 36, 36A and 36B.
232. The Maharashtra Land Revenue Code and the Maharashtra Restoration of Lands to Scheduled Tribes (Second Amendment) Act, 1976 (Maharashtra Act 30 of 1977).
233. The Maharashtra Abolition of Subsisting Proprietary Rights to Mines and Minerals in certain Lands Act, 1985 (Maharashtra Act 16 of 1985).
234. The Orissa Scheduled Areas Transfer of Immovable Property (by Scheduled Tribes) Regulation, 1956 (Orissa Regulation 2 of 1956).
235. The Orissa Land Reforms (Second Amendment) Act, 1975 (Orissa Act 29 of 1976).
236. The Orissa Land Reforms (Amendment) Act, 1976 (Orissa Act 30 of 1976).
237. The Orissa Land Reforms (Second Amendment) Act, 1976 (Orissa Act 44 of 1976).
238. The Rajasthan Colonisation (Amendment) Act, 1984 (Rajasthan Act 12 of 1984).
239. The Rajasthan Tenancy (Amendment) Act, 1984 (Rajasthan Act 13 of 1984).
240. The Rajasthan Tenancy (Amendment) Act, 1987 (Rajasthan Act 21 of 1987).
241. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Second Amendment Act, 1979 (Tamil Nadu Act 8 of 1980).
242. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1980 (Tamil Nadu Act 21 of 1980).
243. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1981 (Tamil Nadu Act 59 of 1981).
244. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Second Amendment Act, 1983 (Tamil Nadu Act 2 of 1984).
245. The Uttar Pradesh Land Laws (Amendment) Act, 1982 (Uttar Pradesh Act 20 of 1982).

246. The West Bengal Land Reforms (Amendment) Act, 1965 (West Bengal Act 18 of 1965).

247. The West Bengal Land Reforms (Amendment) Act, 1966 (West Bengal Act 11 of 1966).

248. The West Bengal Land Reforms (Second Amendment) Act, 1969 (West Bengal Act 23 of 1969).

249. The West Bengal Estate Acquisition (Amendment) Act, 1977 (West Bengal Act 36 of 1977).

250. The West Bengal Land Holding Revenue Act, 1979 (West Bengal Act 44 of 1979).

251. The West Bengal Land Reforms (Amendment) Act, 1980 (West Bengal Act 41 of 1980).

252. The West Bengal Land Holding Revenue (Amendment) Act, 1981 (West Bengal Act 33 of 1981).

253. The Calcutta Thikka Tenancy (Acquisition and Regulation) Act, 1981 (West Bengal Act 37 of 1981).

254. The West Bengal Land Holding Revenue (Amendment) Act, 1982 (West Bengal Act 23 of 1982).

255. The Calcutta Thikka Tenancy (Acquisition and Regulation) (Amendment) Act, 1984 (West Bengal Act 41 of 1984).

256. The Mahe Land Reforms Act, 1968 (Pondicherry Act 1 of 1968).

257. The Mahe Land Reforms (Amendment) Act, 1980 (Pondicherry Act 1 of 1981).]

¹[257A. The Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in Educational Institutions and of appointments or posts in the Services under the State) Act, 1993 (Tamil Nadu Act 45 of 1994).]

1. Entry 257A ins. by the Constitution (Seventy-sixth Amendment) Act, 1994, s. 2 (w.e.f. 31-8-1994).

¹[258. The Bihar Privileged Persons Homestead Tenancy Act, 1947 (Bihar Act 4 of 1948).

259. The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (Bihar Act 22 of 1956).

260. The Bihar Consolidation of Holdings and Prevention of Fragmentation (Amendment) Act, 1970 (Bihar Act 7 of 1970).

261. The Bihar Privileged Persons Homestead Tenancy (Amendment) Act, 1970 (Bihar Act 9 of 1970).

262. The Bihar Consolidation of Holdings and Prevention of Fragmentation (Amendment) Act, 1973 (Bihar Act 27 of 1975).

263. The Bihar Consolidation of Holdings and Prevention of Fragmentation (Amendment) Act, 1981 (Bihar Act 35 of 1982).

264. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1987 (Bihar Act 21 of 1987).

265. The Bihar Privileged Persons Homestead Tenancy (Amendment) Act, 1989 (Bihar Act 11 of 1989).

266. The Bihar Land Reforms (Amendment) Act, 1989 (Bihar Act 11 of 1990).

267. The Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) (Amendment) Act, 1984 (Karnataka Act 3 of 1984).

268. The Kerala Land Reforms (Amendment) Act, 1989 (Kerala Act 16 of 1989).

269. The Kerala Land Reforms (Second Amendment) Act, 1989 (Kerala Act 2 of 1990).

270. The Orissa Land Reforms (Amendment) Act, 1989 (Orissa Act 9 of 1990).

271. The Rajasthan Tenancy (Amendment) Act, 1979 (Rajasthan Act 16 of 1979).

272. The Rajasthan Colonisation (Amendment) Act, 1987 (Rajasthan Act 2 of 1987).

273. The Rajasthan Colonisation (Amendment) Act, 1989 (Rajasthan Act 12 of 1989).

1. Entries 258 to 284 ins. by the Constitution (Seventy-eighth Amendment) Act, 1995, s. 2 (w.e.f. 30-8-1995).

274. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1983 (Tamil Nadu Act 3 of 1984).

275. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1986 (Tamil Nadu Act 57 of 1986).

276. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Second Amendment Act, 1987 (Tamil Nadu Act 4 of 1988).

277. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) (Amendment) Act, 1989 (Tamil Nadu Act 30 of 1989).

278. The West Bengal Land Reforms (Amendment) Act, 1981 (West Bengal Act 50 of 1981).

279. The West Bengal Land Reforms (Amendment) Act, 1986 (West Bengal Act 5 of 1986).

280. The West Bengal Land Reforms (Second Amendment) Act, 1986 (West Bengal Act 19 of 1986).

281. The West Bengal Land Reforms (Third Amendment) Act, 1986 (West Bengal Act 35 of 1986).

282. The West Bengal Land Reforms (Amendment) Act, 1989 (West Bengal Act 23 of 1989).

283. The West Bengal Land Reforms (Amendment) Act, 1990 (West Bengal Act 24 of 1990).

284. The West Bengal Land Reforms Tribunal Act, 1991 (West Bengal Act 12 of 1991).]

Explanation:—Any acquisition made under the Rajasthan Tenancy Act, 1955 (Rajasthan Act 3 of 1955), in contravention of the second proviso to clause(1) of article 31A shall, to the extent of the contravention, be void.]

¹[TENTH SCHEDULE
[Articles 102(2) and 191(2)]

Provisions as to disqualification on ground of defection

1. Interpretation.—In this Schedule, unless the context otherwise requires,—

(a) "House" means either House of Parliament or the Legislative Assembly or, as the case may be, either House of the Legislature of a State;

(b) "legislature party", in relation to a member of a House belonging to any political party in accordance with the provisions of paragraph 2 or ^{2***} paragraph 4, means the group consisting of all the members of that House for the time being belonging to that political party in accordance with the said provisions;

(c) "original political party", in relation to a member of a House, means the political party to which he belongs for the purposes of subparagraph (1) of paragraph 2;

(d) "paragraph" means a paragraph of this Schedule.

2. Disqualification on ground of defection.—(1) Subject to the provisions of ³[paragraphs 4 and 5], a member of a House belonging to any political party shall be disqualified for being a member of the House—

(a) if he has voluntarily given up his membership of such political party; or

(b) if he votes or abstains from voting in such House contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention.

Explanation.—For the purposes of this sub-paragraph,—

(a) an elected member of a House shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such member;

(b) a nominated member of a House shall,—

1. Tenth Schedule added by the Constitution (Fifty-second Amendment) Act, 1985, s. 6 (w.e.f. 1-3-1985).

2. Certain words omitted by the Constitution (Ninety-first Amendment) Act, 2003, s. 5 (w.e.f. 1-1-2004).

3. Subs. by s. 5, *ibid.*, for "paragraphs 3, 4 and 5" (w.e.f. 1-1-2004).

(i) where he is a member of any political party on the date of his nomination as such member, be deemed to belong to such political party;

(ii) in any other case, be deemed to belong to the political party of which he becomes, or, as the case may be, first becomes, a member before the expiry of six months from the date on which he takes his seat after complying with the requirements of article 99 or, as the case may be, article 188.

(2) An elected member of a House who has been elected as such otherwise than as a candidate set up by any political party shall be disqualified for being a member of the House if he joins any political party after such election.

(3) A nominated member of a House shall be disqualified for being a member of the House if he joins any political party after the expiry of six months from the date on which he takes his seat after complying with the requirements of article 99 or, as the case may be, article 188.

(4) Notwithstanding anything contained in the foregoing provisions of this paragraph, a person who, on the commencement of the Constitution (Fifty-second Amendment) Act, 1985, is a member of a House (whether elected or nominated as such) shall,—

(i) where he was a member of political party immediately before such commencement, be deemed, for the purposes of sub-paragraph (1) of this paragraph, to have been elected as a member of such House as a candidate set up by such political party;

(ii) in any other case, be deemed to be an elected member of the House who has been elected as such otherwise than as a candidate set up by any political party for the purposes of sub-paragraph (2) of this paragraph or, as the case may be, be deemed to be a nominated member of the House for the purposes of sub-paragraph (3) of this paragraph.

^{1*} * * * *

4. Disqualification on ground of defection not to apply in case of merger.— (1) A member of a House shall not be disqualified under sub-paragraph (1) of paragraph 2 where his original political party merges with another political party and he claims that he and any other members of his original political party—

(a) have become members of such other political party or, as the case may be, of a new political party formed by such merger; or

(b) have not accepted the merger and opted to function as a separate group,

1. Paragraph 3 omitted by the Constitution (Ninety-first Amendment) Act, 2003, s. 5 (w.e.f. 1-1-2004).

and from the time of such merger, such other political party or new political party or group, as the case may be, shall be deemed to be the political party to which he belongs for the purposes of sub-paragraph (1) of paragraph 2 and to be his original political party for the purposes of this sub-paragraph.

(2) For the purposes of sub-paragraph (1) of this paragraph, the merger of the original political party of a member of a House shall be deemed to have taken place if, and only if, not less than two-thirds of the members of the legislature party concerned have agreed to such merger.

5. Exemption.—Notwithstanding anything contained in this Schedule, a person who has been elected to the office of the Speaker or the Deputy Speaker of the House of the People or the Deputy Chairman of the Council of States or the Chairman or the Deputy Chairman of the Legislative Council of a State or the Speaker or the Deputy Speaker of the Legislative Assembly of a State, shall not be disqualified under this Schedule,—

(a) if he, by reason of his election to such office, voluntarily gives up the membership of the political party to which he belonged immediately before such election and does not, so long as he continues to hold such office thereafter, rejoin that political party or become a member of another political party; or

(b) if he, having given up by reason of his election to such office his membership of the political party to which he belonged immediately before such election, rejoins such political party after he ceases to hold such office.

6. Decision on questions as to disqualification on ground of defection.—(1) If any question arises as to whether a member of a House has become subject to disqualification under this Schedule, the question shall be referred for the decision of the Chairman or, as the case may be, the Speaker of such House and his decision shall be final:

Provided that where the question which has arisen is as to whether the Chairman or the Speaker of a House has become subject to such disqualification, the question shall be referred for the decision of such member of the House as the House may elect in this behalf and his decision shall be final.

(2) All proceedings under sub-paragraph (1) of this paragraph in relation to any question as to disqualification of a member of a House under this Schedule shall be deemed to be proceedings in Parliament within the meaning of article 122 or, as the case may be, proceedings in the Legislature of a State within the meaning of article 212.

***7. Bar of jurisdiction of courts.**—Notwithstanding anything in this Constitution, no court shall have any jurisdiction in respect of any matter connected with the disqualification of a member of a House under this Schedule.

8. Rules.—(1) Subject to the provisions of sub-paragraph (2) of this paragraph, the Chairman or the Speaker of a House may make rules for giving effect to the provisions of this Schedule, and in particular, and without prejudice to the generality of the foregoing, such rules may provide for—

(a) the maintenance of registers or other records as to the political parties, if any, to which different members of the House belong;

(b) the report which the leader of a legislature party in relation to a member of a House shall furnish with regard to any condonation of the nature referred to in clause (b) of sub-paragraph (1) of paragraph 2 in respect of such member, the time within which and the authority to whom such report shall be furnished;

(c) the reports which a political party shall furnish with regard to admission to such political party of any members of the House and the officer of the House to whom such reports shall be furnished; and

(d) the procedure for deciding any question referred to in sub-paragraph (1) of paragraph 6 including the procedure for any inquiry which may be made for the purpose of deciding such question.

(2) The rules made by the Chairman or the Speaker of a House under sub-paragraph (1) of this paragraph shall be laid as soon as may be after they are made before the House for a total period of thirty days which may be comprised in one session or in two or more successive sessions and shall take effect upon the expiry of the said period of thirty days unless they are sooner approved with or without modifications or disapproved by the House and where they are so approved, they shall take effect on such approval in the form in which they were laid or in such modified form, as the case may be, and where they are so disapproved, they shall be of no effect.

(3) The Chairman or the Speaker of a House may, without prejudice to the provisions of article 105 or, as the case may be, article 194, and to any other power which he may have under this Constitution direct that any wilful contravention by any person of the rules made under this paragraph may be dealt with in the same manner as a breach of privilege of the House.]

* Paragraph 7 declared invalid for want of ratification in accordance with the proviso to clause (2) of article 368 as per majority opinion in *Kihoto Hollohon Vs. Zachilhu and Others* A.I.R. 1993 SC 412.

¹[ELEVENTH SCHEDULE

(Article 243G)

1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest produce.
8. Small scale industries, including food processing industries.
9. Khadi, village and cottage industries.
10. Rural housing.
11. Drinking water.
12. Fuel and fodder.
13. Roads, culverts, bridges, ferries, waterways and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Non-conventional energy sources.
16. Poverty alleviation programme.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
20. Libraries.
21. Cultural activities.
22. Markets and fairs.
23. Health and sanitation, including hospitals, primary health centres and dispensaries.
24. Family welfare.
25. Women and child development.
26. Social welfare, including welfare of the handicapped and mentally retarded.
27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.
28. Public distribution system.
29. Maintenance of community assets.]

1. Eleventh Schedule added by the Constitution (Seventy-third Amendment) Act, 1992, s. 4 (w.e.f. 24-4-1993).

¹[TWELFTH SCHEDULE

(Article 243W)

1. Urban planning including town planning.
2. Regulation of land-use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation conservancy and solid waste management.
7. Fire services.
8. Urban forestry, protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
10. Slum improvement and upgradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks, gardens, playgrounds.
13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds; cremations, cremation grounds; and electric crematoriums.
15. Cattle pounds; prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughter houses and tanneries.]

1. Twelfth Schedule added by the Constitution (Seventy-fourth Amendment) Act, 1992, s. 4 (w.e.f. 1-6-1993).

APPENDIX I
THE CONSTITUTION (ONE HUNDREDTH AMENDMENT)
ACT, 2015

[28th May, 2015.]

An Act further to amend the Constitution of India to give effect to the acquiring of territories by India and transfer of certain territories to Bangladesh in pursuance of the agreement and its protocol entered into between the Governments of India and Bangladesh.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. Short title.—This Act may be called the Constitution (One Hundredth Amendment) Act, 2015.

2. Definitions.—In this Act,—

(a) “acquired territory” means so much of the territories comprised in the India-Bangladesh agreement and its protocol and referred to in the First Schedule as are demarcated for the purpose of being acquired by India from Bangladesh in pursuance of the agreement and its protocol referred to in clause (c);

(b) “appointed day” means such date as the Central Government may, by notification in the Official Gazette, appoint as the date for acquisition of territories from Bangladesh and transfer of the territories to Bangladesh in pursuance of the India-Bangladesh agreement and its protocol, after causing the territories to be so acquired and transferred as referred to in the First Schedule and Second Schedule and demarcated for the purpose;

(c) “India-Bangladesh agreement” means the agreement between the Government of the Republic of India and the Government of the People’s Republic of Bangladesh concerning the Demarcation of the Land Boundary between India and Bangladesh and Related Matters dated the 16th day of May, 1974, Exchange of Letters dated the 26th day of December, 1974, the 30th day of December, 1974, the 7th day of October, 1982, the 26th day of March, 1992 and protocol to the said agreement dated the 6th day of September, 2011, entered into between the Governments of India and Bangladesh, the relevant extracts of which are set out in the Third Schedule;

* 31st day of July, 2015, *vide* notification No. S.O. 2094(E), dated 31st July, 2015.

(d) “transferred territory”, means so much of the territories comprised in the India-Bangladesh agreement and its protocol and referred to in the Second Schedule as are demarcated for the purpose of being transferred by India to Bangladesh in pursuance of the agreements and its protocol referred to in clause (c).

3. Amendment of First Schedule to Constitution.— As from the appointed day, in the First Schedule to the Constitution,—

(a) in the paragraph relating to the territories of the State of Assam, the words, brackets and figures “and the territories referred to in Part I of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015, notwithstanding anything contained in clause (a) of section 3 of the Constitution (Ninth Amendment) Act, 1960, so far as it relates to the territories referred to in Part I of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015”, shall be added at the end;

(b) in the paragraph relating to the territories of the State of West Bengal, the words, brackets and figures “and also the territories referred to in Part III of the First Schedule but excluding the territories referred to in Part III of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015, notwithstanding anything contained in clause (c) of section 3 of the Constitution (Ninth Amendment) Act, 1960, so far as it relates to the territories referred to in Part III of the First Schedule and the territories referred to in Part III of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015”, shall be added at the end;

(c) in the paragraph relating to the territories of the State of Meghalaya, the words, brackets and figures “and the territories referred to in Part I of the First Schedule but excluding the territories referred to in Part II of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015”, shall be added at the end;

(d) in the paragraph relating to the territories of the State of Tripura, the words, brackets and figures “and the territories referred to in Part II of the First Schedule to the Constitution (One Hundredth Amendment) Act, 2015, notwithstanding anything contained in clause (d) of section 3 of the Constitution (Ninth Amendment) Act, 1960, so far as it relates to the territories referred to in Part II of the First Schedule to the Constitution (One Hundredth Amendment) Act, 2015”, shall be added at the end.

THE CONSTITUTION OF INDIA

(Appendix I)

THE FIRST SCHEDULE*[See sections 2(a), 2(b) and 3]***PART I**

The acquired territory in relation to Article 2 of the agreement dated the 16th day of May, 1974 and Article 3 (I) (b) (ii) (iii) (iv) (v) of the protocol dated the 6th day of September, 2011.

PART II

The acquired territory in relation to Article 2 of the agreement dated the 16th day of May, 1974 and Article 3 (I) (c) (i) of the protocol dated the 6th day of September, 2011.

PART III

The acquired territory in relation to Articles 1(12) and 2 of the agreement dated the 16th day of May, 1974 and Articles 2 (II), 3 (I) (a) (iii) (iv) (v) (vi) of the protocol dated the 6th day of September, 2011.

THE SECOND SCHEDULE*[See sections 2(b), 2(d) and 3]***PART I**

The transferred territory in relation to Article 2 of the agreement dated 16th day of May, 1974 and Article 3 (I) (d) (i) (ii) of the protocol dated 6th day of September, 2011.

PART II

The transferred territory in relation to Article 2 of the agreement dated the 16th day of May, 1974 and Article 3 (I) (b) (i) of the protocol dated 6th day of September, 2011.

PART III

The transferred territory in relation to Articles 1(12) and 2 of the agreement dated the 16th day of May, 1974 and Articles 2 (II), 3 (I) (a) (i) (ii) (vi) of the protocol dated the 6th day of September, 2011.

THE CONSTITUTION OF INDIA

(Appendix I)

THE THIRD SCHEDULE

[See section 2(c)]

I. EXTRACTS FROM THE AGREEMENT BETWEEN GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH CONCERNING THE DEMARCATON OF THE LAND BOUNDARY BETWEEN INDIA AND BANGLADESH AND RELATED MATTERS DATED THE 16TH DAY OF MAY, 1974

Article 1 (12): ENCLAVES

The Indian enclaves in Bangladesh and the Bangladesh enclaves in India should be exchanged expeditiously, excepting the enclaves mentioned in paragraph 14 without claim to compensation for the additional area going to Bangladesh.

Article 2:

The Governments of India and Bangladesh agree that territories in adverse possession in areas already demarcated in respect of which boundary strip maps are already prepared, shall be exchanged within six months of the signing of the boundary strip maps by the plenipotentiaries. They may sign the relevant maps as early as possible as and in any case not later than the 31st December, 1974. Early measures may be taken to print maps in respect of other areas where demarcation has already taken place. These should be printed by the 31st May, 1975 and signed by the plenipotentiaries thereafter in order that the exchange of adversely held possessions in these areas may take place by the 31st December, 1975. In sectors still to be demarcated, transfer of territorial jurisdiction may take place within six months of the signature by plenipotentiaries on the concerned boundary strip maps.

II. EXTRACTS FROM THE PROTOCOL TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH CONCERNING THE DEMARCATON OF THE LAND BOUNDARY BETWEEN INDIA AND BANGLADESH AND RELATED MATTERS, DATED THE 6TH DAY OF SEPTEMBER, 2011

Article 2:

(II) Article 1 Clause 12 of the 1974 Agreement shall be implemented as follows:—

Enclaves

111 Indian Enclaves in Bangladesh and 51 Bangladesh Enclaves in India as per the jointly verified cadastral enclave maps and signed at the level of DGLR&S, Bangladesh and DLR&S, West Bengal (India) in April, 1997, shall be exchanged without claim to compensation for the additional areas going to Bangladesh.

Article 3:

(I) Article 2 of the 1974 Agreement shall be implemented as follows:—

The Government of India and the Government of Bangladesh agree that the boundary shall be drawn as a fixed boundary for territories held in Adverse Possession as determined through joint survey and fully depicted in the respective adversely possessed land area Index Map (APL map) finalised by the Land Records and Survey Departments of both the countries between December, 2010 and August, 2011, which are fully described in clause (a) to (d) below.

The relevant strip maps shall be printed and signed by the Plenipotentiaries and transfer of territorial jurisdiction shall be completed simultaneously with the exchange of enclaves. The demarcation of the boundary, as depicted in the above-mentioned Index Maps, shall be as under:—

(a) West Bengal Sector*(i) Bousmari – Madhugari (Kushtia-Nadia) area*

The boundary shall be drawn from the existing Boundary Pillar Nos. 154/5-S to 157/1-S to follow the centre of old course of river Mathabanga, as depicted in consolidation map of 1962, as surveyed jointly and agreed in June, 2011.

(ii) Andharkota (Kushtia-Nadia) area

The boundary shall be drawn from existing Boundary Pillar No. 152/5-S to Boundary Pillar No. 153/1-S to follow the edge of existing River Mathabanga as jointly surveyed and agreed in June, 2011.

THE CONSTITUTION OF INDIA

(Appendix I)

(iii) Pakuria (Kushtia-Nadia) area

The boundary shall be drawn from existing Boundary Pillar No. 151/1-S to Boundary Pillar No. 152/2-S to follow the edge of River Mathabanga as jointly surveyed and agreed in June, 2011.

(iv) Char Mahishkundi (Kushtia-Nadia) area

The boundary shall be drawn from existing Boundary Pillar No. 153/1-S to Boundary Pillar No. 153/9-S to follow the edge of River Mathabanga as jointly surveyed and agreed in June, 2011.

*(v) Haripal/Khutadah/Battoli/Sapameri/LNpur (Patari)
(Naogaon-Malda) area*

The boundary shall be drawn as line joining from existing Boundary Pillar No. 242/S/13, to Boundary Pillar No. 243/7-S/5 and as jointly surveyed and agreed in June, 2011.

(vi) Berubari (Panchagarh-Jalpaiguri area)

The boundary in the area Berubari (Panchagarh-Jalpaiguri) adversely held by Bangladesh, and Berubari and Singhapara-Khudipara (Panchagarh-Jalpaiguri), adversely held by India shall be drawn as jointly demarcated during 1996-1998.

(b) Meghalaya Sector

(i) Lobachera-Nuncherra

The boundary from existing Boundary Pillar No. 1315/4-S to Boundary Pillar No. 1315/15-S in Lailong - Balichera, Boundary Pillar No. 1316/1-S to Boundary Pillar No. 1316/11-S in Lailong- Nooncherra, Boundary Pillar No. 1317 to Boundary Pillar No. 1317/13-S in Lailong- Lahiling and Boundary Pillar No. 1318/1-S to Boundary Pillar No. 1318/2-S in Lailong- Lobhachera shall be drawn to follow the edge of tea gardens as jointly surveyed and agreed in December, 2010.

THE CONSTITUTION OF INDIA

(Appendix I)

(ii) Pyrdiwah/ Padua Area

The boundary shall be drawn from existing Boundary Pillar No. 1270/1-S as per jointly surveyed and mutually agreed line till Boundary Pillar No. 1271/1-T. The Parties agree that the Indian Nationals from Pyrdiwah village shall be allowed to draw water from Piyang River near point No. 6 of the agreed Map.

(iii) Lyngkhat Area

(aa) Lyngkhat-I/Kulumcherra and Lyngkhat-II/Kulumcherra

The boundary shall be drawn from existing Boundary Pillar No. 1264/4-S to Boundary Pillar No. 1265 and BP No. 1265/6-S to 1265/9-S as per jointly surveyed and mutually agreed line.

(ab) Lyngkhat-III/Sonarhat

The boundary shall be drawn from existing Boundary Pillar No. 1266/13-S along the nallah southwards till it meets another nallah in the east-west direction, thereafter it shall run along the northern edge of the nallah in east till it meets the existing International Boundary north of Reference Pillar Nos. 1267/4-R-B and 1267/3-R-I.

(iv) Dawki/Tamabil area

The boundary shall be drawn by a straight line joining existing Boundary Pillar Nos. 1275/1-S to Boundary Pillar Nos. 1275/7-S. The Parties agree to fencing on ‘zero line’ in this area.

THE CONSTITUTION OF INDIA

(Appendix I)

*(v) Naljuri/Sreepur Area**(aa) Naljuri I*

The boundary shall be a line from the existing Boundary Pillar No. 1277/2-S in southern direction up to three plots as depicted in the strip Map No. 166 till it meets the nallah flowing from Boundary Pillar No. 1277/5-T, thereafter it will run along the western edge of the nallah in the southern direction up to 2 plots on the Bangladesh side, thereafter it shall run eastwards till it meets a line drawn in southern direction from Boundary Pillar No. 1277/4-S.

(ab) Naljuri III

The boundary shall be drawn by a straight line from existing Boundary Pillar No. 1278/2-S to Boundary Pillar No. 1279/ 3-S.

(vi) Muktapur/ Dibir Hawor Area

The Parties agree that the Indian Nationals shall be allowed to visit Kali Mandir and shall also be allowed to draw water and exercise fishing rights in the water body in the Muktapur / Dibir Hawor area from the bank of Muktapur side.

(c) Tripura Sector

Chandannagar-Champarai Tea Garden area in Tripura/Moulvi Bazar sector

The boundary shall be drawn along Sonaraichhera river from existing Boundary Pillar No. 1904 to Boundary Pillar No. 1905 as surveyed jointly and agreed in July, 2011.

THE CONSTITUTION OF INDIA

(Appendix I)

(d) Assam Sector*(i) Kalabari (Boroibari) area in Assam sector*

The boundary shall be drawn from existing Boundary Pillar No. 1066/24-T to Boundary Pillar No. 1067/16-T as surveyed jointly and agreed in August, 2011.

(ii) Pallathal area in Assam sector

The boundary shall be drawn from existing Boundary Pillar No. 1370/3-S to 1371/ 6-S to follow the outer edge of the tea garden and from Boundary Pillar No. 1372 to 1373/2-S along outer edge of the pan plantation.

III. LIST OF EXCHANGE OF ENCLAVES BETWEEN INDIA AND BANGLADESH IN PURSUANT TO ARTICLE 1 (12) OF THE AGREEMENT DATED 16TH MAY, 1974 AND THE PROTOCOL TO THE AGREEMENT DATED 6TH SEPTEMBER, 2011

A. EXCHANGEABLE INDIAN ENCLAVES IN BANGLADESH WITH AREA

Sl.	Name of Chhits No.	Chhit No.	Lying within Police station Bangladesh	Lying within Police station in W. Bengal	Area acres
1	2	3	4	5	6

A. Enclaves with independent chhits

1.	Garati	75	Pochagar	Haldibari	58.23
2.	Garati	76	Pochagar	Haldibari	0.79
3.	Garati	77	Pochagar	Haldibari	18
4.	Garati	78	Pochagar	Haldibari	958.66
5.	Garati	79	Pochagar	Haldibari	1.74
6.	Garati	80	Pochagar	Haldibari	73.75
7.	Bingimari Part-I	73	Pochagar	Haldibari	6.07

THE CONSTITUTION OF INDIA

(Appendix I)

1	2	3	4	5	6
8.	Nazirganja	41	Boda	Haldibari	58.32
9.	Nazirganja	42	Boda	Haldibari	434.29
10.	Nazirganja	44	Boda	Haldibari	53.47
11.	Nazirganja	45	Boda	Haldibari	1.07
12.	Nazirganja	46	Boda	Haldibari	17.95
13.	Nazirganja	47	Boda	Haldibari	3.89
14.	Nazirganja	48	Boda	Haldibari	73.27
15.	Nazirganja	49	Boda	Haldibari	49.05
16.	Nazirganja	50	Boda	Haldibari	5.05
17.	Nazirganja	51	Boda	Haldibari	0.77
18.	Nazirganja	52	Boda	Haldibari	1.04
19.	Nazirganja	53	Boda	Haldibari	1.02
20.	Nazirganja	54	Boda	Haldibari	3.87
21.	Nazirganja	55	Boda	Haldibari	12.18
22.	Nazirganja	56	Boda	Haldibari	54.04
23.	Nazirganja	57	Boda	Haldibari	8.27
24.	Nazirganja	58	Boda	Haldibari	14.22
25.	Nazirganja	60	Boda	Haldibari	0.52
26.	Putimari	59	Boda	Haldibari	122.8
27.	Daikhata Chhat	38	Boda	Haldibari	499.21
28.	Salbari	37	Boda	Haldibari	1188.93
29.	Kajal Dighi	36	Boda	Haldibari	771.44
30.	Nataktoke	32	Boda	Haldibari	162.26
31.	Nataktoke	33	Boda	Haldibari	0.26
32.	Beuladanga Chhat	35	Boda	Haldibari	0.83
33.	Balapara Iagrabar	3	Debiganj	Haldibari	1752.44
34.	Bara Khankikharia Citaldaha	30	Dimla	Haldibari	7.71

THE CONSTITUTION OF INDIA

(Appendix I)

1	2	3	4	5	6
35.	Bara Khankikharia Citaldaha	29	Dimla	Haldibari	36.83
36.	Barakhangir	28	Dimla	Haldibari	30.53
37.	Nagarjikobari	31	Dimla	Haldibari	33.41
38.	Kuchlibari	26	Patgram	Mekliganj	5.78
39.	Kuchlibari	27	Patgram	Mekliganj	2.04
40.	Bara Kuchlibari	Fragment of J.L. 107 of P.S Mekliganj	Patgram	Mekliganj	4.35
41.	Jamaldaha- Balapukhari	6	Patgram	Mekliganj	5.24
42.	Uponchowki kuchlibari	115/2	Patgram	Mekliganj	0.32
43.	Uponchowki kuchlibari	7	Patgram	Mekliganj	44.04
44.	Bhothnri	11	Patgram	Mekliganj	36.83
45.	Balapukhari	5	Patgram	Mekliganj	55.91
46.	Bara Khangir	4	Patgram	Mekliganj	50.51
47.	Bara Khangir	9	Patgram	Mekliganj	87.42
48.	Chhat Bogdokra	10	Patgram	Mekliganj	41.7
49.	Ratanpur	11	Patgram	Mekliganj	58.91
50.	Bogdokra	12	Patgram	Mekliganj	25.49
51.	Fulker Dabri	Fragment of J.L. 107 of P.S Mekliganj	Patgram	Mekliganj	0.88

THE CONSTITUTION OF INDIA

(Appendix I)

1	2	3	4	5	6
52.	Kharkharia	15	Patgram	Mekliganj	60.74
53.	Kharkharia	13	Patgram	Mekliganj	51.62
54.	Lotamari	14	Patgram	Mekliganj	110.92
55.	Bhotbari	16	Patgram	Mekliganj	205.46
56.	Komat Changrabandha	16A	Patgram	Mekliganj	42.8
57.	Komat Changrabandha	17A	Patgram	Mekliganj	16.01
58.	Panisala	17	Patgram	Mekliganj	137.66
59.	Dwarikamari Khasbash	18	Patgram	Mekliganj	36.5
60.	Panisala	153/P	Patgram	Mekliganj	0.27
61.	Panisala	153/O	Patgram	Mekliganj	18.01
62.	Panisala	19	Patgram	Mekliganj	64.63
63.	Panisala	21	Patgram	Mekliganj	51.4
64.	Lotamari	20	Patgram	Mekliganj	283.53
65.	Lotamari	22	Patgram	Mekliganj	98.85
66.	Dwarikamari	23	Patgram	Mekliganj	39.52
67.	Dwarikamari	25	Patgram	Mekliganj	45.73
68.	Chhat Bhothat	24	Patgram	Mekliganj	56.11
69.	Baakata	131	Patgram	Hathabhanga	22.35
70.	Baakata	132	Patgram	Hathabhanga	11.96
71.	Baakata	130	Patgram	Hathibhanga	20.48
72.	Bhogramguri	133	Patgram	Hathibhanga	1.44
73.	Chenakata	134	Patgram	Mekliganj	7.81
74.	Banskata	119	Patgram	Mathabanga	413.81
75.	Banskata	120	Patgram	Mathabanga	30.75
76.	Banskata	121	Patgram	Mathabanga	12.15
77.	Banskata	113	Patgram	Mathabanga	57.86
78.	Banskata	112	Patgram	Mathabanga	315.04
79.	Banskata	114	Patgram	Mathabanga	0.77

THE CONSTITUTION OF INDIA

(Appendix I)

1	2	3	4	5	6
80.	Banskata	115	Patgram	Mathabanga	29.2
81.	Banskata	122	Patgram	Mathabanga	33.22
82.	Banskata	127	Patgram	Mathabanga	12.72
83.	Banskata	128	Patgram	Mathabanga	2.33
84.	Banskata	117	Patgram	Mathabanga	2.55
85.	Banskata	118	Patgram	Mathabanga	30.98
86.	Banskata	125	Patgram	Mathabanga	0.64
87.	Banskata	126	Patgram	Mathabanga	1.39
88.	Banskata	129	Patgram	Mathabanga	1.37
89.	Banskata	116	Patgram	Mathabanga	16.96
90.	Banskata	123	Patgram	Mathabanga	24.37
91.	Banskata	124	Patgram	Mathabanga	0.28
92.	Gotamari Chhit	135	Hatibandha	Sitalkuchi	126.59
93.	Gotamari Chhit	136	Hatibandha	Sitalkuchi	20.02
94.	Banapachai	151	Lalmonirhat	Dinhata	217.29
95.	Banapachai Bhitarkuthi	152	Lalmonirhat	Dinhata	81.71
96.	Dasiar Chhara	150	Fulbari	Dinhata	1643.44
97.	Dakurhat- Dakinirkuthi	156	Kurigram	Dinhata	14.27
98.	Kalamati	141	Bhurungamari	Dinhata	21.21
99.	Bhahobganj	153	Bhurungamari	Dinhata	31.58
100.	Baotikursa	142	Bhurungamari	Dinhata	45.63
101.	Bara Coachulka	143	Bhurungamari	Dinhata	39.99
102.	Gaochulka II	147	Bhurungamari	Dinhata	0.9
103.	Gaochulka I	146	Bhurungamari	Dinhata	8.92
104.	Dighaltari II	145	Bhurungamari	Dinhata	8.81
105.	Dighaltari I	144	Bhurungamari	Dinhata	12.31
106.	Chhoto Garajjhora II	149	Bhurungamari	Dinhata	17.85

THE CONSTITUTION OF INDIA

(Appendix I)

1	2	3	4	5	6
107.	Chhoto Garajjhora I	148	Bhurungamari	Dinhata	35.74
108.	1 chhit* without name & JL No. at the southern and of JL No. 38 & southern and of JL No. 39 (locally known as Ashokabari**)		Patgram	Mathabhanga	3.5

Enclaves with Fragmented Chhits

109.	(i) Bewladanga	34	Haldibari	Boda	862.46
	(ii) Bewladanga	Fragment	Haldibari	Debiganj	
110.	(i) Kotbhajni	2	Haldibari	Debiganj	2012.27
	(ii) Kotbhajni	Fragment	Haldibari	Debiganj	
	(iii) Kotbhajni	Fragment	Haldibari	Debiganj	
	(iv) Kotbhajni	Fragment	Haldibari	Debiganj	
111.	(i) Dahala	Khagrabri	Haldibari	Debiganj	2650.35
	(ii) Dahala	Fragment	Haldibari	Debiganj	
	(iii) Dahala	Fragment	Haldibari	Debiganj	
	(iv) Dahala	Fragment	Haldibari	Debiganj	

* Corrected *vide* 150th (54th) India-Bangladesh Boundary Conference held at Kolkata from 29th September to 2nd October, 2002.

** Corrected *vide* 152nd (56th) India-Bangladesh Boundary Conference held at Kochbihar, India from 18th—20th September, 2003.

THE CONSTITUTION OF INDIA

(Appendix I)

1	2	3	4	5	6
	(v) Dahala	Fragment	Haldibari	Debiganj	
	(vi) Dahala	Fragment	Haldibari	Debiganj	
17160.63					

The above given details of enclaves have been jointly compared and reconciled with records held by India and Bangladesh during the Indo-Bangladesh Conference held at Calcutta during 9th—12th October, 1996 as well as during joint field inspection at Jalpaiguri (West Bengal) Panchagarh (Bangladesh) sector during 21—24 November, 1996.

Note: Name of enclave in Sl. No. 108 above has been identified as Ashokabari by joint ground verification during field season 1996-97.

Brig. J.R. Peter
 Director Land Records & Survey
(Ex-Officio) West Bengal, India &
 Director, Eastern Circle Survey of
 India, Calcutta.

Md. Shafi Uddin
 Director-General, Land Records
 and Surveys, Bangladesh.

B. EXCHANGEABLE BANGLADESH ENCLAVES IN INDIA WITH AREA

Sl. No.	Name of Chhits	Lying within Police station W. Bengal	Lying within Police station Bangladesh	J.L. No.	Area in acres
1	2	3	4	5	6

A. Enclaves with independent chhits

1.	Chhit Kuchlibari	Mekliganj	Patgram	22	370.64
2.	Chhit Land of Kuchlibari	Mekliganj	Patgram	24	1.83
3.	Balapukhari	Mekliganj	Patgram	21	331.64
4.	Chhit Land of Panbari No. 2	Mekliganj	Patgram	20	1.13

THE CONSTITUTION OF INDIA

(Appendix I)

1	2	3	4	5	6
5.	Chhit Panbari	Mekliganj	Patgram	18	108.59
6.	Dhabalsati Mirgipur	Mekliganj	Patgram	15	173.88
7.	Bamandal	Mekliganj	Patgram	11	2.24
8.	Chhit Dhabalsati	Mekliganj	Patgram	14	66.58
9.	Dhabalsati	Mekliganj	Patgram	13	60.45
10.	Srirampur	Mekliganj	Patgram	8	1.05
11.	Jote Nijjama	Mekliganj	Patgram	3	87.54
12.	Chhit Land of Jagatber No. 3	Mathabhanga	Patgram	37	69.84
13.	Chhit Land of Jagatber No.1	Mathabhanga	Patgram	35	30.66
14.	Chhit Land of Jagatber No. 2	Mathabhanga	Patgram	36	27.09
15.	Chhit Kokoabari	Mathabhanga	Patgram	47	29.49
16.	Chhit Bhandardaha	Mathabhanga	Patgram	67	39.96
17.	Dhabalguri	Mathabhanga	Patgram	52	12.5
18.	Chhit Dhabalguri	Mathabhanga	Patgram	53	22.31
19.	Chhit Land of Dhabalguri No. 3	Mathabhanga	Patgram	70	1.33
20.	Chhit Land of Dhabalguri No. 4	Mathabhanga	Patgram	71	4.55
21.	Chhit Land of Dhabalguri No. 5	Mathabhanga	Patgram	72	4.12
22.	Chhit Land of Dhabalguri No. 1	Mathabhanga	Patgram	68	26.83
23.	Chhit Land of Dhabalguri No. 2	Mathabhanga	Patgram	69	13.95
24.	Mahishmari	Sitalkuchi	Patgram	54	122.77
25.	Bura Saradubi	Sitalkuchi	Hatibandha	13	34.96

THE CONSTITUTION OF INDIA

(Appendix I)

1	2	3	4	5	6
26.	Falnapur	Sitalkuchi	Patgram	64	505.56
27.	Amjhol	Sitalkuchi	Hatibandha	57	1.25
28.	Kismat Batrigachh	Dinhata	Kaliganj	82	209.95
29.	Durgapur	Dinhata	Kaliganj	83	20.96
30.	Bansua Khamar Gitaldaha	Dinhata	Lalmonirhat	1	24.54
31.	Poaturkuthi	Dinhata	Lalmonirhat	37	589.94
32.	Paschim Bakalir Chhara	Dinhata	Bhurungamari	38	151.98
33.	Madhya Bakalir Chhara	Dinhata	Bhurungamari	39	32.72
34.	Purba Bakalir Chhara	Dinhata	Bhurungamari	40	12.23
35.	Madhya Masaldanga	Dinhata	Bhurungamari	3	136.66
36.	Madhya Chhit Masaldanga	Dinhata	Bhurungamari	8	11.87
37.	Paschim Chhit Masaldanga	Dinhata	Bhurungamari	7	7.6
38.	Uttar Masaldanga	Dinhata	Bhurungamari	2	27.29
39.	Kachua	Dinhata	Bhurungamari	5	119.74
40.	Uttar Bansjani	Tufanganj	Bhurungamari	1	47.17
41.	Chhat Tilai	Tufanganj	Bhurungamari	17	81.56
<i>B. Enclaves with Fragmented Chhits</i>					
42.	(i) Nalgram	Sitalkuchi	Patgarm	65	1397.34
	(ii) Nalgram (Fragment)	Sitalkuchi	Patgarm	65	
	(iii) Nalgram (Fragment)	Sitalkuchi	Patgarm	65	

THE CONSTITUTION OF INDIA

(Appendix I)

1	2	3	4	5	6
43.	(i) Chhit Nalgram (ii) Chhit Nalgram (Fragment)	Sitalkuchi Sitalkuchi	Patgarm Patgarm	66 66	49.5
44.	(i) Batrigachh (ii) Batrigachh (Fragment) (iii) Batrigachh (Fragment)	Dinhata Dinhata Dinhata	Kaliganj Kaliganj Phulbari	81 81 9	577.37
45.	(i) Karala (ii) Karala (fragment) (iii) Karala (fragment)	Dinhata Dinhata Dinhata	Phulbari Phulbari Phulbari	9 9 8	269.91
46.	(i) Sipprasad Mustati (ii) Sipprasad Mustati (Fragment)	Dinhata Dinhata	Phulbari Phulbari	8 6	373.2
47.	(i) Dakshin Masaldanga (ii) Dakshin Masaldanga (Fragment) (iii) Dakshin Masaldanga (Fragment) (iv) Dakshin Masaldanga (Fragment) (v) Dakshin Masaldanga (Fragment) (vi) Dakshin Masaldanga (Fragment)	Dinhata Dinhata Dinhata Dinhata Dinhata Dinhata	Bhurungamari Bhurungamari Bhurungamari Bhurungamari Bhurungamari Bhurungamari	6 6 6 6 6 6	571.38

THE CONSTITUTION OF INDIA

(Appendix I)

1	2	3	4	5	6
48.	(i) Paschim Masaldanga	Dinhata	Bhurungamari	4	29.49
	(ii) Paschim Masaldanga (Fragment)	Dinhata	Bhurungamari	4	
49.	(i) Purba Chhit Masaldanga	Dinhata	Bhurungamari	10	35.01
	(ii) Purba Chhit Masaldanga (Fragment)	Dinhata	Bhurungamari	10	
50.	(i) Purba Masaldanga	Dinhata	Bhurungamari	11	153.89
	(ii) Purba Masaldanga (Fragment)	Dinhata	Bhurungamari	11	
51.	(i) Uttar Dhaldanga	Tufanganj	Bhurungamari	14	24.98
	(ii) Uttar Dhaldanga (Fragment)	Tufanganj	Bhurungamari	14	
	(iii) Uttar Dhaldanga (Fragment)	Tufanganj	Bhurungamari	14	
Total Area				7,110.02	

The above given details of enclaves have been jointly compared and reconciled with records held by India and Bangladesh during the Indo-Bangladesh Conference held at Calcutta during 9th—12th October, 1996 as well as during joint field inspection at Jalpaiguri (West Bengal) – Panchagarh (Bangladesh) sector during 21—24 November, 1996.

Brig. J.R. Peter
Director Land Records & Survey
(*Ex officio*) West Bengal, India &
Director, Eastern Circle Survey of
India, Calcutta.

Md. Shafi Uddin
Director General, Land Records
and Surveys, Bangladesh.

APPENDIX II

¹THE CONSTITUTION (APPLICATION TO JAMMU AND KASHMIR) ORDER, 2019

C.O. 272

In exercise of the powers conferred by clause (1) of article 370 of the Constitution, the President, with the concurrence of the Government of State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Order, 2019.

(2) It shall come into force at once, and shall thereupon supersede the Constitution (Application to Jammu and Kashmir) Order, 1954 as amended from time to time.

2. All the provisions of the Constitution, as amended from time to time, shall apply in relation to the State of Jammu and Kashmir and the exceptions and modifications subject to which they shall so apply shall be as follows:—

To article 367, there shall be added the following clause, namely:—

“(4) For the purposes of this Constitution as it applies in relation to the State of Jammu and Kashmir—

(a) references to this Constitution or to the provisions thereof shall be construed as references to the Constitution or the provisions thereof as applied in relation to the said State;

(b) references to the person for the time being recognized by the President on the recommendation of the Legislative Assembly of the State as the Sadar-i-Riyasat of Jammu and Kashmir, acting on the advice of the Council of Ministers of the State for the time being in office, shall be construed as references to the Governor of Jammu and Kashmir;

(c) references to the Government of the said State shall be construed as including references to the Governor of Jammu and Kashmir acting on the advice of his Council of Ministers; and

(d) in proviso to clause (3) of article 370 of this Constitution, the expression “Constituent Assembly of the State referred to in clause (2)” shall read “Legislative Assembly of the State”.”

1.Published with the Ministry of Law and Justice, (Legislative Department) notification No. G.S.R. 551 (E), dated the 5th August, 2019, Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i).

APPENDIX III

¹DECLARATION UNDER ARTICLE 370(3) OF THE CONSTITUTION

C.O. 273

In exercise of the powers conferred by clause (3) of article 370 read with clause (1) of article 370 of the Constitution of India, the President, on the recommendation of Parliament, is pleased to declare that, as from the 6th August, 2019, all clauses of the said article 370 shall cease to be operative except the following which shall read as under, namely:—

“370. All provisions of this Constitution, as amended from time to time, without any modifications or exceptions, shall apply to the State of Jammu and Kashmir notwithstanding anything contrary contained in article 152 or article 308 or any other article of this Constitution or any other provision of the Constitution of Jammu and Kashmir or any law, document, judgement, ordinance, order, by-law, rule, regulation, notification, custom or usage having the force of law in the territory of India, or any other instrument, treaty or agreement as envisaged under article 363 or otherwise.”.

1.Published with the Ministry of Law and Justice, (Legislative Department) notification No. G.S.R. 562(E), dated the 6th August, 2019, Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i).

THE COMPANIES ACT, 2013

ARRANGEMENT OF SECTIONS

CHAPTER I PRELIMINARY

SECTIONS

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

CHAPTER II

INCORPORATION OF COMPANY AND MATTERS INCIDENTAL THERETO

3. Formation of company.
- 3A. Members severally liable in certain cases.
4. Memorandum.
5. Articles.
6. Act to override memorandum, articles, etc.
7. Incorporation of company.
8. Formation of companies with charitable objects, etc.
9. Effect of registration.
10. Effect of memorandum and articles.
- 10A. Commencement of business, etc.
11. [Omitted].
12. Registered office of company.
13. Alteration of memorandum.
14. Alteration of articles.
15. Alteration of memorandum or articles to be noted in every copy.
16. Rectification of name of company.
17. Copies of memorandum, articles, etc., to be given to members.
18. Conversion of companies already registered.
19. Subsidiary company not to hold shares in its holding company.
20. Service of documents.
21. Authentication of documents, proceedings and contracts.
22. Execution of bills of exchange, etc.

CHAPTER III

PROSPECTUS AND ALLOTMENT OF SECURITIES

PART I.—*Public offer*

23. Public offer and private placement.
24. Power of Securities and Exchange Board to regulate issue and transfer of securities, etc.
25. Document containing offer of securities for sale to be deemed prospectus.
26. Matters to be stated in prospectus.
27. Variation in terms of contract or objects in prospectus.
28. Offer of sale of shares by certain members of company.
29. Public offer of securities to be in dematerialised form.
30. Advertisement of prospectus.
31. Shelf prospectus.
32. Red herring prospectus.
33. Issue of application forms for securities.
34. Criminal liability for mis-statements in prospectus.
35. Civil liability for mis-statements in prospectus.

SECTIONS

36. Punishment for fraudulently inducing persons to invest money.
37. Action by affected persons.
38. Punishment for personation for acquisition, etc., of securities.
39. Allotment of securities by company.
40. Securities to be dealt with in stock exchanges.
41. Global depository receipt.

PART II.—*Private placement*

42. Issue of shares on private placement basis.

CHAPTER IV

SHARE CAPITAL AND DEBENTURES

43. Kinds of share capital.
44. Nature of shares or debentures.
45. Numbering of shares.
46. Certificate of shares.
47. Voting rights.
48. Variation of shareholders' rights.
49. Calls on shares of same class to be made on uniform basis.
50. Company to accept unpaid share capital, although not called up.
51. Payment of dividend in proportion to amount paid-up.
52. Application of premiums received on issue of shares.
53. Prohibition on issue of shares at discount.
54. Issues of sweat equity shares.
55. Issue and redemption of preference shares.
56. Transfer and transmission of securities.
57. Punishment for personation of shareholder.
58. Refusal of registration and appeal against refusal.
59. Rectification of register of members.
60. Publication of authorised, subscribed and paid-up capital.
61. Power of limited company to alter its share capital.
62. Further issue of share capital.
63. Issue of bonus shares.
64. Notice to be given to Registrar for alteration of share capital.
65. Unlimited company to provide for reserve share capital on conversion into limited company.
66. Reduction of share capital.
67. Restrictions on purchase by company or giving of loans by it for purchase of its shares.
68. Power of company to purchase its own securities.
69. Transfer of certain sums to capital redemption reserve account.
70. Prohibition for buy-back in certain circumstances.
71. Debentures.
72. Power to nominate.

CHAPTER V

ACCEPTANCE OF DEPOSITS BY COMPANIES

73. Prohibition on acceptance of deposits from public.
74. Repayment of deposits, etc., accepted before commencement of this Act.
75. Damages for fraud.

SECTIONS

- 76. Acceptance of deposits from public by certain companies.
- 76A. Punishment for contravention of section 73 or section 76.

CHAPTER VI REGISTRATION OF CHARGES

- 77. Duty to register charges, etc.
- 78. Application for registration of charge.
- 79. Section 77 to apply in certain matters.
- 80. Date of notice of charge.
- 81. Register of charges to be kept by Registrar.
- 82. Company to report satisfaction of charge.
- 83. Power of Registrar to make entries of satisfaction and release in absence of intimation from company.
- 84. Intimation of appointment of receiver or manager.
- 85. Company's register of charges.
- 86. Punishment for contravention.
- 87. Rectification by Central Government in Register of charges.

CHAPTER VII MANAGEMENT AND ADMINISTRATION

- 88. Register of members, etc.
- 89. Declaration in respect of beneficial interest in any share.
- 90. Register of significant beneficial owners in a Company.
- 91. Power to close register of members or debenture holders or other security holders.
- 92. Annual return.
- 93. [Omitted].
- 94. Place of keeping and inspection of registers, returns, etc.
- 95. Registers, etc., to be evidence.
- 96. Annual general meeting.
- 97. Power of Tribunal to call annual general meeting.
- 98. Power of Tribunal to call meetings of members, etc.
- 99. Punishment for default in complying with provisions of sections 96 to 98.
- 100. Calling of extraordinary general meeting.
- 101. Notice of meeting.
- 102. Statement to be annexed to notice.
- 103. Quorum for meetings.
- 104. Chairman of meetings.
- 105. Proxies.
- 106. Restriction on voting rights.
- 107. Voting by show of hands.
- 108. Voting through electronic means.
- 109. Demand for poll.
- 110. Postal ballot.
- 111. Circulation of members' resolution.
- 112. Representation of President and Governors in meetings.
- 113. Representation of corporations at meeting of companies and of creditors.
- 114. Ordinary and special resolutions.
- 115. Resolutions requiring special notice.
- 116. Resolutions passed at adjourned meeting.
- 117. Resolutions and agreements to be filed.

SECTIONS

118. Minutes of proceedings of general meeting, meeting of Board of Directors and other meeting and resolutions passed by postal ballot.
119. Inspection of minute-books of general meeting.
120. Maintenance and inspection of documents in electronic form.
121. Report on annual general meeting.
122. Applicability of this Chapter to One Person Company.

CHAPTER VIII

DECLARATION AND PAYMENT OF DIVIDEND

123. Declaration of dividend.
124. Unpaid Dividend Account.
125. Investor Education and Protection Fund.
126. Right to dividend, rights shares and bonus shares to be held in abeyance pending registration of transfer of shares.
127. Punishment for failure to distribute dividends.

CHAPTER IX

ACCOUNTS OF COMPANIES

128. Books of account, etc., to be kept by company.
129. Financial statement.
- 129A. Periodical financial results.
130. Re-opening of accounts on court's or Tribunal's orders.
131. Voluntary revision of financial statements or Board's report.
132. Constitution of National Financial Reporting Authority.
133. Central Government to prescribe accounting standards
134. Financial statement, Board's report, etc.
135. Corporate Social Responsibility.
136. Right of member to copies of audited financial statement.
137. Copy of financial statement to be filed with Registrar.
138. Internal Audit.

CHAPTER X

AUDIT AND AUDITORS

139. Appointment of auditors.
140. Removal, resignation of auditor and giving of special notice.
141. Eligibility, qualifications and disqualifications of auditors.
142. Remuneration of auditors.
143. Powers and duties of auditors and auditing standards.
144. Auditor not to render certain services.
145. Auditor to sign audit reports, etc.
146. Auditors to attend general meeting.
147. Punishment for contravention.
148. Central Government to specify audit of items of cost in respect of certain companies.

CHAPTER XI

APPOINTMENT AND QUALIFICATIONS OF DIRECTORS

149. Company to have Board of Directors.

SECTIONS

150. Manner of selection of independent directors and maintenance of data bank of independent directors.
151. Appointment of director elected by small shareholders.
152. Appointment of directors.
153. Application for allotment of Director Identification Number.
154. Allotment of Director Identification Number.
155. Prohibition to obtain more than one Director Identification Number.
156. Director to intimate Director Identification Number.
157. Company to inform Director Identification Number to Registrar.
158. Obligation to indicate Director Identification Number.
159. Penalty for default of certain provisions.
160. Right of persons other than retiring directors to stand for directorship.
161. Appointment of additional director, alternate director and nominee director.
162. Appointment of directors to be voted individually.
163. Option to adopt principle of proportional representation for appointment of directors.
164. Disqualifications for appointment of director.
165. Number of directorships.
166. Duties of directors.
167. Vacation of office of director.
168. Resignation of director.
169. Removal of directors.
170. Register of directors and key managerial personnel and their shareholding.
171. Members' right to inspect.
172. Penalty.

CHAPTER XII

MEETINGS OF BOARD AND ITS POWERS

173. Meetings of Board.
174. Quorum for meetings of Board.
175. Passing of resolution by circulation.
176. Defects in appointment of directors not to invalidate actions taken.
177. Audit committee.
178. Nomination and Remuneration Committee and Stakeholders Relationship Committee.
179. Powers of Board.
180. Restrictions on powers of Board.
181. Company to contribute to *bona fide* and charitable funds, etc.
182. Prohibitions and restrictions regarding political contributions.
183. Power of Board and other persons to make contributions to national defence fund, etc.
184. Disclosure of interest by director.
185. Loan to directors, etc.
186. Loan and investment by company.
187. Investments of company to be held in its own name.
188. Related party transactions.
189. Register of contracts or arrangements in which directors are interested.
190. Contract of employment with managing or whole-time directors.
191. Payment to director for loss of office, etc., in connection with transfer of undertaking, property or shares.
192. Restriction on non-cash transactions involving directors.
193. Contract by One Person Company.
194. [Omitted].
195. [Omitted].

CHAPTER XIII

APPOINTMENT AND REMUNERATION OF MANAGERIAL PERSONNEL

SECTIONS

- 196. Appointment of managing director, whole-time director or manager.
- 197. Overall maximum managerial remuneration and managerial remuneration in case of absence or inadequacy of profits.
- 198. Calculation of profits.
- 199. Recovery of remuneration in certain cases.
- 200. Central Government or company to fix limit with regard to remuneration.
- 201. Forms of, and procedure in relation to, certain applications.
- 202. Compensation for loss of office of managing or whole-time director or manager.
- 203. Appointment of key managerial personnel.
- 204. Secretarial audit for bigger companies.
- 205. Functions of company secretary.

CHAPTER XIV

INSPECTION, INQUIRY AND INVESTIGATION

- 206. Power to call for information, inspect books and conduct inquiries.
- 207. Conduct of inspection and inquiry.
- 208. Report on inspection made.
- 209. Search and seizure.
- 210. Investigation into affairs of company.
- 211. Establishment of Serious Fraud Investigation Office.
- 212. Investigation into affairs of company by Serious Fraud Investigation Office.
- 213. Investigation into company's affairs in other cases.
- 214. Security for payment of costs and expenses of investigation.
- 215. Firm, body corporate or association not to be appointed as inspector.
- 216. Investigation of ownership of company.
- 217. Procedure, powers, etc., of inspectors.
- 218. Protection of employees during investigation.
- 219. Power of inspector to conduct investigation into affairs of related companies, etc.
- 220. Seizure of documents by inspector.
- 221. Freezing of assets of company on inquiry and investigation.
- 222. Imposition of restrictions upon securities.
- 223. Inspector's report.
- 224. Actions to be taken in pursuance of inspector's report.
- 225. Expenses of investigation.
- 226. Voluntary winding up of company, etc., not to stop investigation proceedings.
- 227. Legal advisers and bankers not to disclose certain information.
- 228. Investigation, etc., of foreign companies.
- 229. Penalty for furnishing false statement, mutilation, destruction of documents.

CHAPTER XV

COMPROMISES, ARRANGEMENTS AND AMALGAMATIONS

- 230. Power to compromise or make arrangements with creditors and members.
- 231. Power to Tribunal to enforce compromise or arrangement.
- 232. Merger and amalgamation of companies.
- 233. Merger or amalgamation of certain companies.
- 234. Merger or amalgamation of company with foreign company.

SECTIONS

- 235. Power to acquire shares of shareholders dissenting from scheme or contract approved by majority.
- 236. Purchase of minority shareholding.
- 237. Power of Central Government to provide for amalgamation of companies in public interest.
- 238. Registration of offer of schemes involving transfer of shares.
- 239. Preservation of books and papers of amalgamated companies.
- 240. Liability of officers in respect of offences committed prior to merger, amalgamation, etc.

CHAPTER XVI

PREVENTION OF OPPRESSION AND MISMANAGEMENT

- 241. Application to Tribunal for relief in cases of oppression, etc.
- 242. Powers of Tribunal.
- 243. Consequence of termination or modification of certain agreements.
- 244. Right to apply under section 241.
- 245. Class action.
- 246. Application of certain provisions to proceedings under section 241 or section 245.

CHAPTER XVII

REGISTERED VALUERS

- 247. Valuation by registered valuers.

CHAPTER XVIII

REMOVAL OF NAMES OF COMPANIES FROM THE REGISTER OF COMPANIES

- 248. Power of Registrar to remove name of company from register of companies.
- 249. Restrictions on making application under section 248 in certain situations.
- 250. Effect of company notified as dissolved.
- 251. Fraudulent application for removal of name.
- 252. Appeal to Tribunal.

CHAPTER XIX

REVIVAL AND REHABILITATION OF SICK COMPANIES

- 253. [Omitted].
- 254. [Omitted].
- 255. [Omitted].
- 256. [Omitted].
- 257. [Omitted].
- 258. [Omitted].
- 259. [Omitted].
- 260. [Omitted].
- 261. [Omitted].
- 262. [Omitted].
- 263. [Omitted].
- 264. [Omitted].
- 265. [Omitted].
- 266. [Omitted].
- 267. [Omitted].
- 268. [Omitted].
- 269. [Omitted].

CHAPTER XX

WINDING UP

SECTIONS

270. Winding up by Tribunal.

PART I.—*Winding up by the Tribunal*

- 271. Circumstances in which company may be wound up by Tribunal.
- 272. Petition for winding up.
- 273. Powers of Tribunal.
- 274. Directions for filing statement of affairs.
- 275. Company Liquidators and their appointments.
- 276. Removal and replacement of liquidator.
- 277. Intimation to Company Liquidator, provisional liquidator and Registrar.
- 278. Effect of winding up order.
- 279. Stay of suits, etc., on winding up order.
- 280. Jurisdiction of Tribunal.
- 281. Submission of report by Company Liquidator.
- 282. Directions of Tribunal on report of Company Liquidator.
- 283. Custody of company's properties.
- 284. Promoters, directors, etc., to cooperate with Company Liquidator.
- 285. Settlement of list of contributories and application of assets.
- 286. Obligations of directors and managers.
- 287. Advisory Committee.
- 288. Submission of periodical reports to Tribunal.
- 289. [Omitted.]
- 290. Powers and duties of Company Liquidator.
- 291. Provision for professional assistance to Company Liquidator.
- 292. Exercise and control of Company Liquidator's powers.
- 293. Books to be kept by Company Liquidator.
- 294. Audit of Company Liquidator's accounts.
- 295. Payment of debts by contributory and extent of set-off.
- 296. Power of Tribunal to make calls.
- 297. Adjustment of rights of contributories.
- 298. Power to order costs.
- 299. Power to summon persons suspected of having property of company, etc.
- 300. Power to order examination of promoters, directors, etc.
- 301. Arrest of person trying to leave India or abscond.
- 302. Dissolution of company by Tribunal.
- 303. Appeals from orders made before commencement of Act.

[Omitted.]

- 304. [Omitted.]
- 305. [Omitted.]
- 306. [Omitted.]
- 307. [Omitted.]
- 308. [Omitted.]
- 309. [Omitted.]
- 310. [Omitted.]
- 311. [Omitted.]
- 312. [Omitted.]
- 313. [Omitted.]

SECTIONS

- 314. [Omitted].
- 315. [Omitted].
- 316. [Omitted].
- 317. [Omitted].
- 318. [Omitted].
- 319. [Omitted].
- 320. [Omitted].
- 321. [Omitted].
- 322. [Omitted].
- 323. [Omitted].

PART III.—*Provisions applicable to every mode of winding up*

- 324. Debts of all descriptions to be admitted to proof.
- 325. [Omitted.]
- 326. Overriding preferential payments.
- 327. Preferential payments.
- 328. Fraudulent preference.
- 329. Transfers not in good faith to be void.
- 330. Certain transfers to be void.
- 331. Liabilities and rights of certain persons fraudulently preferred.
- 332. Effect of floating charge.
- 333. Disclaimer of onerous property.
- 334. Transfers, etc., after commencement of winding up to be void.
- 335. Certain attachments, executions, etc., in winding up by Tribunal to be void.
- 336. Offences by officers of companies in liquidation.
- 337. Penalty for frauds by officers.
- 338. Liability where proper accounts not kept.
- 339. Liability for fraudulent conduct of business.
- 340. Power of Tribunal to assess damages against delinquent directors, etc.
- 341. Liability under sections 339 and 340 to extend to partners or directors in firms or companies.
- 342. Prosecution of delinquent officers and members of company.
- 343. Company Liquidator to exercise certain powers subject to sanction.
- 344. Statement that company is in liquidation.
- 345. Books and papers of company to be evidence.
- 346. Inspection of books and papers by creditors and contributories.
- 347. Disposal of books and papers of company.
- 348. Information as to pending liquidations.
- 349. Official Liquidator to make payments into public account of India.
- 350. Company Liquidator to deposit monies into scheduled bank.
- 351. Liquidator not to deposit monies into private banking account.
- 352. Company Liquidation Dividend and Undistributed Assets Account.
- 353. Liquidator to make returns, etc.
- 354. Meetings to ascertain wishes of creditors or contributories.
- 355. Court, tribunal or person, etc., before whom affidavit may be sworn.
- 356. Power of Tribunal to declare dissolution of company void.
- 357. Commencement of winding up by Tribunal.
- 358. Exclusion of certain time in computing period of limitation.

PART IV.—*Official Liquidators*

SECTIONS

- 359. Appointment of Official Liquidator.
- 360. Powers and functions of Official Liquidator.
- 361. Summary procedure for liquidation.
- 362. Sale of assets and recovery of debts due to company.
- 363. Settlement of claims of creditors by Official Liquidator.
- 364. Appeal by creditor.
- 365. Order of dissolution of company.

CHAPTER XXI

PART I.—*Companies authorised to Register under this Act*

- 366. Companies capable of being registered.
- 367. Certificate of registration of existing companies.
- 368. Vesting of property on registration.
- 369. Saving of existing liabilities.
- 370. Continuation of pending legal proceedings.
- 371. Effect of registration under this Part.
- 372. Power of Court to stay or restrain proceedings.
- 373. Suits stayed on winding up order.
- 374. Obligations of companies registering under this Part.

PART II.—*Winding up of unregistered companies*

- 375. Winding up of unregistered companies.
- 376. Power to wind up foreign companies although dissolved.
- 377. Provisions of Chapter cumulative.
- 378. Saving and construction of enactments conferring power to wind up partnership firm, association or company, etc., in certain cases.

CHAPTER XXIA

PRODUCER COMPANIES

PART I

PRELIMINARY

- 378A. Definitions.

PART II

INCORPORATION OF PRODUCER COMPANIES AND OTHER MATTERS

- 378B. Objects of producer company.
- 378C. Formation of Producer Company and its registration.
- 378D. Membership and voting rights of Members of Producer Company.
- 378E. Benefits to Members.
- 378F. Memorandum of Producer Company.
- 378G. Articles of association.
- 378H. Amendment of memorandum.
- 378-I. Amendment of articles.
- 378J. Option to inter-State co-operative societies to become Producer Companies.

SECTIONS

- 378K. Effect of incorporation of Producer Company.
- 378L. Vesting of undertaking in Producer Company.
- 378M. Concession, etc., to be deemed to have been granted to Producer Company.
- 378N. Provisions in respect of officers and other employees of inter-State co-operative society.

PART III

MANAGEMENT OF PRODUCER COMPANY

- 378-O. Number of directors.
- 378P. Appointment of directors.
- 378Q. Vacation of office by directors.
- 378R. Powers and functions of Board.
- 378S. Matters to be transacted at general meeting.
- 378T. Liability of directors.
- 378U. Committee of directors.
- 378V. Meetings of Board and quorum.
- 378W. Chief Executive and his functions.
- 378X. Secretary of Producer Company.
- 378Y. Quorum.
- 378Z. Voting rights.

PART IV

GENERAL MEETINGS

- 378ZA. Annual general meetings.

PART V

SHARE CAPITAL AND MEMBERS RIGHTS

- 378ZB. Share capital.
- 378ZC. Special user rights.
- 378ZD. Transferability of shares and attendant rights.

PART VI

FINANCE, ACCOUNTS AND AUDIT

- 378ZE. Books of account.
- 378ZF. Internal audit.
- 378ZG. Duties of auditor under this Chapter.
- 378ZH. Donation or subscription by Producer Company.
- 378Z-I. General and other reserves.
- 378ZJ. Issue of bonus shares.

SECTIONS

PART VII

LOANS TO MEMBERS AND INVESTMENTS

378ZK. Loan, etc., to Members.

378ZL. Investment in other companies, formation of subsidiaries, etc.

PART VIII

PENALTIES

378ZM. Penalty for contravention.

PART IX

AMALGAMATION, MERGER OR DIVISION

378ZN. Amalgamation, merger or division, etc., to form new Producer Companies.

PART X

RESOLUTION OF DISPUTES

378Z-O. Disputes.

PART XI

MISCELLANEOUS PROVISIONS

378ZP. Strike off name of Producer Company.

378ZQ. Provisions of this Chapter to override other laws.

378ZR. Application of provisions relating to private companies.

PART XII

RE-CONVERSION OF PRODUCER COMPANY TO INTER-STATE CO-OPERATIVE SOCIETY

378ZS. Re-conversion of Producer Company to inter-State co-operative society.

378ZT. Power to modify Act in its application to Producer Companies.

378ZU. Power to make rules.

CHAPTER XXII

COMPANIES INCORPORATED OUTSIDE INDIA

379. Application of Act to foreign companies.

380. Documents, etc., to be delivered to Registrar by foreign companies.

381. Accounts of foreign company.

382. Display of name, etc., of foreign company.

383. Service on foreign company.

384. Debentures, annual return, registration of charges, books of account and their inspection.

385. Fee for registration of documents.

386. Interpretation.

387. Dating of prospectus and particulars to be contained therein.

388. Provisions as to expert's consent and allotment.

389. Registration of prospectus.

390. Offer of Indian Depository Receipts.

391. Application of sections 34 to 36 and Chapter XX.

392. Punishment for contravention.

393. Company's failure to comply with provisions of this Chapter not to affect validity of contracts, etc.

CHAPTER XXIII
GOVERNMENT COMPANIES

SECTIONS

- 394. Annual reports on Government companies.
- 395. Annual reports where one or more State Governments are members of companies.

CHAPTER XXIV
REGISTRATION OFFICES AND FEES

- 396. Registration offices.
- 397. Admissibility of certain documents as evidence.
- 398. Provisions relating to filing of applications, documents, inspection, etc., in electronic form.
- 399. Inspection, production and evidence of documents kept by Registrar.
- 400. Electronic form to be exclusive, alternative or in addition to physical form.
- 401. Provision of value added services through electronic form.
- 402. Application of provisions of Information Technology Act, 2000.
- 403. Fee for filing, etc.
- 404. Fees, etc., to be credited into public account.

CHAPTER XXV
COMPANIES TO FURNISH INFORMATION OR STATISTICS

- 405. Power of Central Government to direct companies to furnish information or statistics.

CHAPTER XXVI
NIDHIS

- 406. Provision relating to *Nidhis* and its application, etc.

CHAPTER XXVII
NATIONAL COMPANY LAW TRIBUNAL AND APPELLATE TRIBUNAL

- 407. Definitions.
- 408. Constitution of National Company Law Tribunal.
- 409. Qualification of President and Members of Tribunal.
- 410. Constitution of Appellate Tribunal.
- 411. Qualifications of Chairperson and members of Appellate Tribunal.
- 412. Selection of Members of Tribunal and Appellate Tribunal.
- 413. Term of office of President, Chairperson and other Members.
- 414. Salary, allowances and other terms and conditions of service of Members.
- 415. Acting President and Chairperson of Tribunal or Appellate Tribunal.
- 416. Resignation of Members.
- 417. Removal of Members.
- 417A. Qualifications, terms and conditions of service of Chairperson and Member.
- 418. Staff of Tribunal and Appellate Tribunal.
- 419. Benches of Tribunal.
- 420. Orders of Tribunal.
- 421. Appeal from orders of Tribunal.
- 422. Expedited disposal by Tribunal and Appellate Tribunal.
- 423. Appeal to Supreme Court.
- 424. Procedure before Tribunal and Appellate Tribunal.
- 425. Power to punish for contempt.

SECTIONS

- 426. Delegation of powers.
- 427. President, Members, officers, etc., to be public servants.
- 428. Protection of action taken in good faith.
- 429. Power to seek assistance of Chief Metropolitan Magistrate, etc.
- 430. Civil court not to have jurisdiction.
- 431. Vacancy in Tribunal or Appellate Tribunal not to invalidate acts or proceedings.
- 432. Right to legal representation.
- 433. Limitation.
- 434. Transfer of certain pending proceedings.

CHAPTER XXVIII SPECIAL COURTS

- 435. Establishment of Special Courts.
- 436. Offences triable by Special Courts.
- 437. Appeal and revision.
- 438. Application of Code to proceedings before Special Court.
- 439. Offences to be non-cognizable.
- 440. Transitional provisions.
- 441. Compounding of certain offences.
- 442. Mediation and Conciliation Panel.
- 443. Power of Central Government to appoint company prosecutors.
- 444. Appeal against acquittal.
- 445. Compensation for accusation without reasonable cause.
- 446. Application of fines.
- 446A. Factors for determining level of punishment.
- 446B. Lesser penalties for certain companies.

CHAPTER XXIX MISCELLANEOUS

- 447. Punishment for fraud.
- 448. Punishment for false statement.
- 449. Punishment for false evidence.
- 450. Punishment where no specific penalty or punishment is provided.
- 451. Punishment in case of repeated default.
- 452. Punishment for wrongful withholding of property.
- 453. Punishment for improper use of “Limited” or “Private Limited”.
- 454. Adjudication of penalties.
- 454A. Penalty for repeated default.
- 455. Dormant company.
- 456. Protection of action taken in good faith.
- 457. Non-disclosure of information in certain cases.
- 458. Delegation by Central Government of its powers and functions.
- 459. Powers of Central Government of Tribunal to accord approval, etc., subject to conditions and to prescribe fees on applications.
- 460. Condonation of delay in certain cases.
- 461. Annual report by Central Government.
- 462. Power to exempt class or classes of companies from provisions of this Act.
- 463. Power of court to grant relief in certain cases.
- 464. Prohibition of association or partnership of persons exceeding certain number.
- 465. Repeal of certain enactments and savings.
- 466. Dissolution of Company Law Board and consequential provisions.
- 467. Power of Central Government to amend Schedules.
- 468. Power of Central Government to make rules relating to winding up.

SECTIONS

- 469. Power of Central Government to make rules.
- 470. Power to remove difficulties.

SCHEDULE I.
SCHEDULE II.
SCHEDULE III.
SCHEDULE IV.
SCHEDULE V.
SCHEDULE VI.
SCHEDULE VII.

THE COMPANIES ACT, 2013

ACT NO. 18 OF 2013

[29th August, 2013.]

An Act to consolidate and amend the law relating to companies.

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

CHAPTER I PRELIMINARY

1. Short title, extent, commencement and application.—(1) This Act may be called the Companies Act, 2013.

(2) It extends to the whole of India.

(3) This section shall come into force at once and the remaining provisions of this Act shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint and *different dates may

***1. 12th September, 2013** – S. 2(1), (3), (4), (5), (6), (8), (9), (10), (11), (12), (14), (15), (16), (17), (18), (19), (20), (21), (22), (24), (25), (26), (27), (28), (29) [except sub-clause (iv)], (30), (32), (33), (34), (35), (36), (37), (38), (39), (40), (43), (44), (45), (46), (49), (50), (51), (52), (53), (54), (55), (56), (57), (58), (59), (60), (61), (63), (64), (65), (66), (67) [except sub-clause (ix)], (84), (86), (87) [except the proviso and *Explanation (d)*], (88), (89), (90), (91), (92), (93), (94), (95); s. 19, 21, 22, 23 [except clause (b) of sub-section (1) and sub-section (2)], 24, 25 [except sub-section (3)], 29, 30, 31, 32, 33 [except sub-section (3)], 34, 35 [except clause (e) of sub-section (1)], 36, 37, 38, 39 [except sub-section (4)], 40 [except sub-section (6)], 44, 45, 49, 50, 51, 57, 58, 59, 60, 65, 69, 70 [except sub-section (2)], 86, 91, 100 [except sub-section (6)], 102, 103, 104, 105 [except the third and fourth provisos of sub-section (1) and sub-section (7)], 106, 107, 111, 112, 113 [except clause (b) of sub-section (1)], 114, 116, 127, 133, 161 [except sub-section (2)], 162, 163, 176, 180, 181, 182, 183, 185, 192, 194, 195, 202, 379, 382, 383, 386 [except clause (a)], 394, 405, 407, 408, 409, 410, 411, 412, 413, 414, 439, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 456, 457, 458, 459, 460, 461, 462, 463, 467, 468, 469, 470, *vide* notification No. S.O. 2754(E), dated 12th September, 2013, *see Gazette of India, Extraordinary, Part II, sec. 3(ii)*.

1st April 2014 – S. 2(2), (7), (13), (31), (41), (42), (47), (48), (62), (83), (85) and *Explanation (d)* of clause (87); ss. 3, 4, 5, 6; s. 7 [except sub-section (7)]; s. 8 [except sub-section (9)]; ss. 9, 10, 11, 12 and 13; s. 14 [except second proviso to sub-section (1) and sub-section (2)]; ss. 15, 16, 17 and 18; section 20; clause (b) of sub-section (1) and sub-section (2) of section 23; sub-section (3) of section 25; ss. 26, 27 and 28; sub-section (3) of s. 33; clause (e) of sub-section (1) of s. 35; sub-section (4) of s. 39; sub-section (6) of s. 40; ss. 41, 42 and 43; ss. 46 and 47; ss. 52, 53 and 54; s. 55 [except sub-section (3)]; s. 56; s. 61 [except proviso to clause (b) of sub-section (1)]; s. 62 [except sub-sections (4) to (6)]; ss. 63 and 64; ss. 67 and 68; sub-section (2) of section 70; s. 71 [except sub-sections (9) to (11)]; ss. 72 and 73; sub-section (1) of s. 74; ss. 76, 77, 78, 79, 80, 81, 82, 83, 84 and 85; ss. 87, 88, 89 and 90; ss. 92, 93, 94, 95 and 96; sub-section (6) of s. 100; s. 101; third and fourth provisos to sub-section (1) and sub-section (7) of s. 105; ss. 108, 109 and 110; clause (b) of sub-section (1) of s. 113; s. 115; ss. 117 and 118; s. 119 [except sub-section (4)]; ss. 120, 121, 122 and 123; s. 126; ss. 128 and 129; s. 134; ss. 136, 137, 138 and 139; s. 140 [except second proviso to sub-section (4) and sub-section (5)]; ss. 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159 and 160; sub-section (2) of s. 161; ss. 164, 165, 166, 167 and 168; s. 169 [except sub-section (4)]; ss. 170, 171, 172, 173, 174 and 175; ss. 177, 178 and 179; s. 184; ss. 186, 187, 188, 189, 190 and 191; s. 193; ss. 196, 197, 198, 199, 200 and 201; ss. 203, 204, 205, 206, 207, 208, 209, 210 and 211; s. 212 [except references of sub-section (10) of s. 66, sub-section (5) of s. 140], s. 213, sub-section (1) of s. 251 and sub-section (3) of s. 339 made in sub-section (6) and also sub-sections (8) to (10)]; ss. 214, 215; s. 216 [except sub-section (2)]; s. 217; ss. 219 and 220; s. 223; s. 224 [except sub-sections (2) and (5)]; s. 225; ss. 228 and 229; ss. 366, 367, 368 and 369; s. 370 (except the proviso); s. 371; s. 374; ss. 380 and 381; ss. 384 and 385; clause (a) of s. 386; ss. 387, 388, 389 and 390; sub-section (1) of s. 391; ss. 392 and 393; ss. 395, 396, 397 and 398; s. 399 [except reference of word "Tribunal" in sub-section (2)]; ss. 400, 401, 402, 403 and 404; s. 406; s. 442; ss. 454 and 455; s. 464; Schs. I, II, III, IV, V and VI, *vide* notification No. S.O. 902(E), dated 26th March, 2014, *see Gazette of India, Extraordinary, Part II, sec. 3(ii)*.

1st April, 2014 – S. 135 and Sch. VII, *vide* notification No. S.O. 582(E), dated 27th February, 2014, *see Gazette of India, Extraordinary, Part II, sec. 3 (ii)*.

6th June, 2014 – Sub-sections (2) and (3) of s. 74, *vide* notification No. S.O. 1459(E), dated 6th June, 2014, *see Gazette of India, Extraordinary, Part II, sec. 3(ii)*.

13th January, 2016 – S. 125(5), (6) [except with respect to the manner of administration of the Investor Education and Protection Fund] and (7), *vide* notification No. S.O. 125(E), *see Gazette of India, Extraordinary, Part II, sec. 3(ii)*.

18th May, 2016 – S. 2(29) (iv), ss. 435 to 438 and s. 440, *vide* notification No. S.O. 1795(E), dated 18th May, 2016, *see Gazette of India, Extraordinary, Part II, sec. 3(ii)*.

1st June, 2016 – S. 7(7) [except clause (c) and (d)], s. 14(2), second proviso to sub-section (1) of s. 14, s. 55 (3), proviso to clause (b) of sub-section (1) of s. 61; s. 62 (4) to (6), s. 71 (9), (10) and (11), s. 75; s. 97; s. 98 and s. 99; S. 119 (4), s. 130 and 131; second proviso to sub-section (4) and (5) of s. 140, s. 169(4), s. 213, s. 216 (2), s. 218, s. 221, s. 222, s. 224 (5), ss. 241, 242 [except clause (b) of sub-section (1), cl. (c) and (g) of sub-section (2)], 243, 244 and 245; Reference of word "Tribunal" s. 399 (2), ss. 415 to 433, s. 434 (1) (a) and (b) & (2), s. 441 and 466, *vide* notification No. S.O. 1934(E), dated 1st June, 2016, *see Gazette of India, Extraordinary Part II, sec. 3(ii)*.

7th September, 2016 – S. 124, s. 125 (1) to (4), (6) [with respect to the manner of administration of the Investor Education and Protection Fund] and (8) to (11) *vide* Notification No. S.O. 2866(E), dated 5th September, 2016, *see Gazette of India, Extraordinary, Part II, sec. 3(ii)*.

9th September, 2016 – S. 227, 242 (1) (b), (2) (c) & (g), s. 246, ss. 337 to 341 (to the extent of their applicability for s. 246), *vide* notification No. S.O. 2912(E), dated 9th September, 2016, *see Gazette of India, Extraordinary, Part II, sec. 3(ii)*.

15th December, 2016 – S. 2 (23), s. 7 (7) (c) and (d), s. 8 (9), s. 48, s. 66, s. 224 (2), s. 226, s. 230 [except sub-section (11) and (12)], and ss. 231 to 233, ss. 235 to 240, ss. 270 to 288, ss. 290 to 303, ss. 324, ss. 326 to 365, proviso to s. 370, ss. 372 to 373, ss. 375 to 378, s. 391 (2), s. 434 (1) cl. (c) *vide* notification No. S.O. 3677(E), dated 7th December, 2016, *see Gazette of India, Extraordinary Part II, sec. 3 (ii)*.

26th December, 2016 – Ss. 248 to 252, *vide* notification No. S.O. 4167(E), dated 26th December, 2016, *see Gazette of India, Extraordinary Part II, sec. 3 (ii)*.

13th April, 2017 – S. 234, *vide* notification No. S.O. 1182(E), dated 13th April, 2017, *see Gazette of India, Extraordinary Part II, sec. 3 (ii)*.

24th August, 2017 – S. 212 (8), (9) and (10), *vide* notification No. S.O. 2751(E), dated 24th August, 2017, *see Gazette of India, Extraordinary Part II, sec. 3 (ii)*.

20th September, 2017 – Proviso to clause (87) of s. 2, *vide* notification No. S.O. 3086(E), dated 20th September, 2017, *see Gazette of India, Extraordinary Part II, sec. 3 (ii)*.

18th October, 2017 – S. 247, *vide* notification No. S.O. 3393(E), dated 18th October, 2017, *see Gazette of India, Extraordinary Part II, sec. 3(ii)*.

21st March, 2018 – S. 132 (3) and (11), *vide* notification No. S.O. 1316(E), dated 21st March, 2018, *see Gazette of India, Extraordinary Part II, sec. 3(ii)*.

1st October, 2018 – S. 132 (1) and (12), *vide* notification No. S.O. 5098(E), dated 1st October, 2018, *see Gazette of India, Extraordinary Part II, sec. 3(ii)*.

24th October, 2018 – S. 132 (2), (4), (5), (10), (13), (14) and (15) *vide* notification No. S.O. 5385(E), dated 24th October, 2018, *see Gazette of India, Extraordinary Part II, sec. 3(ii)*.

30th January, 2019 – S. 465 in so far as they relate to the repeal of the Companies Act, 1956 (1 of 1956) [that in except in so far as they relate to the repeal of the Registration of Companies (Sikkim) Act, 1961 (Sikkim Act 8 of 1961)] *vide* notification No. S.O. 560(E), dated 30th January 2019, *see Gazette of India, Extraordinary Part II, sec. 3(ii)*.

1st July, 2019 – S. 81, *vide* notification No. S.O. 2269(E), dated 15th August, 2019, *see Gazette of India, Extraordinary Part II, sec. 3(ii)*.

3rd February, 2020 – S. 230 (11) and (12), *vide* notification No. S.O. 525(E), dated 3rd February, 2020, *see Gazette of India, Extraordinary, Part II, sec. 3(ii)*.

21st December, 2020 – S. 1, 3, 6 to 10 (both inclusive), s. 12 to 17 (both inclusive), clauses (a) and (b) of s. 18, s. 19 to 21 (both inclusive), clause (i) of s. 22, 24, 26, 28 to 31 (both inclusive), s. 33 to 39 (both inclusive), s. 41 to 44 (both inclusive), s. 46 to 51 (both inclusive), s. 54, 57, 61 and 63, *vide* notification No. S.O. 4646(E), dated 21st December, 2020, *see Gazette of India, Extraordinary, Part II, sec. 3 (ii)*.

* *Vide* Notification No. S.O. 3912 (E), dated 30th October, 2019, this Act is made applicable to the Union territory of Jammu and Kashmir and the Union territory of Ladakh.

22nd January, 2021 – Sections. 2, 11, clause (c) of sec. 18, Clause (ii) Sec. 22, Sections. 25, 27, 53, 55, 58, 60, 59, 62, 64, 65, *vide* notification No. S.O. 325(E), dated 21st January, 2021, *see Gazette of India, Extraordinary, Part II, sec. 3 (ii)*.

11th February, 2021 – Sections. 52 & 66, *vide* notification No. S.O. 644(E), dated 11th February, 2021, *see Gazette of India, Extraordinary, Part II, sec. 3 (ii)*.

18th March, 2021 – Sections. 32 & 40, *vide* notification No. S.O. 1255(E), dated 18th March, 2021, *see Gazette of India, Extraordinary, Part II, sec. 3 (ii)*.

1st September, 2021 – Section. 4, *vide* notification No. S.O. 2904(E), dated 22nd July, 2021, *see Gazette of India, Extraordinary, Part II, sec. 3 (ii)*.

1st July, 2022 – Section. 56, *vide* notification No. S.O. 148(E), dated 11th January, 2022, *see Gazette of India, Extraordinary, Part II, sec. 3 (ii)*.

30th October, 2023 – Section. 5, *vide* notification No. S.O. 4744(E), dated 30th October, 2023, *see Gazette of India, Extraordinary, Part II, sec. 3 (ii)*.

be appointed for different provisions of this Act and any reference in any provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

(4) The provisions of this Act shall apply to—

- (a) companies incorporated under this Act or under any previous company law;
- (b) insurance companies, except in so far as the said provisions are inconsistent with the provisions of the Insurance Act, 1938 (4 of 1938) or the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);
- (c) banking companies, except in so far as the said provisions are inconsistent with the provisions of the Banking Regulation Act, 1949 (10 of 1949);
- (d) companies engaged in the generation or supply of electricity, except in so far as the said provisions are inconsistent with the provisions of the Electricity Act, 2003 (36 of 2003);
- (f) such body corporate, incorporated by any Act for the time being in force, as the Central Government may, by notification, specify in this behalf, subject to such exceptions, modifications or adaptation, as may be specified in the notification.

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

- (1) “abridged prospectus” means a memorandum containing such salient features of a prospectus as may be specified by the Securities and Exchange Board by making regulations in this behalf;
- (2) “accounting standards” means the standards of accounting or any addendum thereto for companies or class of companies referred to in section 133;
- (3) “alter” or “alteration” includes the making of additions, omissions and substitutions;
- (4) “Appellate Tribunal” means the National Company Law Appellate Tribunal constituted under section 410;
- (5) “articles” means the articles of association of a company as originally framed or as altered from time to time or applied in pursuance of any previous company law or of this Act;
- (6) “associate company”, in relation to another company, means a company in which that other company has a significant influence, but which is not a subsidiary company of the company having such influence and includes a joint venture company.

¹[*Explanation.*—For the purpose of this clause,—

- (a) the expression “significant influence” means control of at least twenty per cent. of total voting power, or control of or participation in business decisions under an agreement;
- (b) the expression “joint venture” means a joint arrangement whereby the parties that have joint control of the arrangement have rights to the net assets of the arrangement;]
- (7) “auditing standards” means the standards of auditing or any addendum thereto for companies or class of companies referred to in sub-section (10) of section 143;
- (8) “authorised capital” or “nominal capital” means such capital as is authorised by the memorandum of a company to be the maximum amount of share capital of the company;
- (9) “banking company” means a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);
- (10) “Board of Directors” or “Board”, in relation to a company, means the collective body of the directors of the company;
- (11) “body corporate” or “corporation” includes a company incorporated outside India, but does not include—
 - (i) a co-operative society registered under any law relating to co-operative societies; and
 - (ii) any other body corporate (not being a company as defined in this Act), which the Central Government may, by notification, specify in this behalf;
- (12) “book and paper” and “book or paper” include books of account, deeds, vouchers, writings, documents, minutes and registers maintained on paper or in electronic form;
- (13) “books of account” includes records maintained in respect of—

1. The *Explanation* subs. by Act 1 of 2018, s. 2 (w.e.f. 7-5-2018).

(i) all sums of money received and expended by a company and matters in relation to which the receipts and expenditure take place;

(ii) all sales and purchases of goods and services by the company;

(iii) the assets and liabilities of the company; and

(iv) the items of cost as may be prescribed under section 148 in the case of a company which belongs to any class of companies specified under that section;

(14) “branch office”, in relation to a company, means any establishment described as such by the company;

(15) “called-up capital” means such part of the capital, which has been called for payment;

(16) “charge” means an interest or lien created on the property or assets of a company or any of its undertakings or both as security and includes a mortgage;

(17) “chartered accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) who holds a valid certificate of practice under sub-section (1) of section 6 of that Act;

(18) “Chief Executive Officer” means an officer of a company, who has been designated as such by it;

(19) “Chief Financial Officer” means a person appointed as the Chief Financial Officer of a company;

(20) “company” means a company incorporated under this Act or under any previous company law;

(21) “company limited by guarantee” means a company having the liability of its members limited by the memorandum to such amount as the members may respectively undertake to contribute to the assets of the company in the event of its being wound up;

(22) “company limited by shares” means a company having the liability of its members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them;

¹[(23) “Company Liquidator” means a person appointed by the Tribunal as the Company Liquidator in accordance with the provisions of section 275 for the winding up of a company under this Act;]

(24) “company secretary” or “secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) who is appointed by a company to perform the functions of a company secretary under this Act;

(25) “company secretary in practice” means a company secretary who is deemed to be in practice under sub-section (2) of section 2 of the Company Secretaries Act, 1980 (56 of 1980);

(26) “contributory” means a person liable to contribute towards the assets of the company in the event of its being wound up.

Explanation.—For the purposes of this clause, it is hereby clarified that a person holding fully paid-up shares in a company shall be considered as a contributory but shall have no liabilities of a contributory under the Act whilst retaining rights of such a contributory;

(27) “control” shall include the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner;

1. Subs. by Act 31 of 2016, s. 255 and the Eleventh Schedule, for clause (23) (w.e.f. 15-11-2016).

¹[(28) “Cost Accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who holds a valid certificate of practice under sub-section (1) of section 6 of that Act;]

(29) “court” means—

(i) the High Court having jurisdiction in relation to the place at which the registered office of the company concerned is situate, except to the extent to which jurisdiction has been conferred on any district court or district courts subordinate to that High Court under sub-clause (ii);

(ii) the district court, in cases where the Central Government has, by notification, empowered any district court to exercise all or any of the jurisdictions conferred upon the High Court, within the scope of its jurisdiction in respect of a company whose registered office is situate in the district;

(iii) the Court of Session having jurisdiction to try any offence under this Act or under any previous company law;

(iv) the Special Court established under section 435;

(v) any Metropolitan Magistrate or a Judicial Magistrate of the First Class having jurisdiction to try any offence under this Act or under any previous company law;

(30) “debenture” includes debenture stock, bonds or any other instrument of a company evidencing a debt, whether constituting a charge on the assets of the company or not:

²[Provided that—

(a) the instruments referred to in Chapter III-D of the Reserve Bank of India Act, 1934 (2 of 1934); and

(b) such other instrument, as may be prescribed by the Central Government in consultation with the Reserve Bank of India, issued by a company,

shall not be treated as debenture;]

(31) “deposit” includes any receipt of money by way of deposit or loan or in any other form by a company, but does not include such categories of amount as may be prescribed in consultation with the Reserve Bank of India;

(32) “depository” means a depository as defined in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996 (22 of 1996);

(33) “derivative” means the derivative as defined in clause (ac) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(34) “director” means a director appointed to the Board of a company;

(35) “dividend” includes any interim dividend;

(36) “document” includes summons, notice, requisition, order, declaration, form and register, whether issued, sent or kept in pursuance of this Act or under any other law for the time being in force or otherwise, maintained on paper or in electronic form;

(37) “employees’ stock option” means the option given to the directors, officers or employees of a company or of its holding company or subsidiary company or companies, if any, which gives such directors, officers or employees, the benefit or right to purchase, or to subscribe for, the shares of the company at a future date at a pre-determined price;

1. Subs. by Act 1 of 2018, s. 2, for clause (28) (w.e.f. 9-2-2018).

2. The Proviso ins. by s. 2, *ibid.* (w.e.f. 9-2-2018).

(38) “expert” includes an engineer, a valuer, a chartered accountant, a company secretary, a cost accountant and any other person who has the power or authority to issue a certificate in pursuance of any law for the time being in force;

(39) “financial institution” includes a scheduled bank, and any other financial institution defined or notified under the Reserve Bank of India Act, 1934 (2 of 1934);

(40) “financial statement” in relation to a company, includes—

(i) a balance sheet as at the end of the financial year;

(ii) a profit and loss account, or in the case of a company carrying on any activity not for profit, an income and expenditure account for the financial year;

(iii) cash flow statement for the financial year;

(iv) a statement of changes in equity, if applicable; and

(v) any explanatory note annexed to, or forming part of, any document referred to in sub-clause (i) to sub-clause (iv):

Provided that the financial statement, with respect to One Person Company, small company and dormant company, may not include the cash flow statement;

(41) “financial year”, in relation to any company or body corporate, means the period ending on the 31st day of March every year, and where it has been incorporated on or after the 1st day of January of a year, the period ending on the 31st day of March of the following year, in respect whereof financial statement of the company or body corporate is made up:

¹[Provided that where a company or body corporate, which is a holding company or a subsidiary or associate company of a company incorporated outside India and is required to follow a different financial year for consolidation of its accounts outside India, the Central Government may, on an application made by that company or body corporate in such form and manner as may be prescribed, allow any period as its financial year, whether or not that period is a year:

Provided further that any application pending before the Tribunal as on the date of commencement of the Companies (Amendment) Act, 2019, shall be disposed of by the Tribunal in accordance with the provisions applicable to it before such commencement;]

²[Provided also that] a company or body corporate, existing on the commencement of this Act, shall, within a period of two years from such commencement, align its financial year as per the provisions of this clause;

(42) “foreign company” means any company or body corporate incorporated outside India which—

(a) has a place of business in India whether by itself or through an agent, physically or through electronic mode; and

(b) conducts any business activity in India in any other manner;

(43) “free reserves” means such reserves which, as per the latest audited balance sheet of a company, are available for distribution as dividend:

Provided that—

(i) any amount representing unrealised gains, notional gains or revaluation of assets, whether shown as a reserve or otherwise, or

(ii) any change in carrying amount of an asset or of a liability recognised in equity, including surplus in profit and loss account on measurement of the asset or the liability at fair value,

shall not be treated as free reserves;

1. The proviso subs. by Act 22 of 2019, s. 2 (w.e.f. 2-11-2018).

2. Subs. by s. 2, *ibid.*, for “Provided further that” (w.e.f. 2-11-2018).

(44) “Global Depository Receipt” means any instrument in the form of a depository receipt, by whatever name called, created by a foreign depository outside India and authorised by a company making an issue of such depository receipts;

(45) “Government company” means any company in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments, and includes a company which is a subsidiary company of such a Government company;

(46) “holding company”, in relation to one or more other companies, means a company of which such companies are subsidiary companies;

¹[Explanation.—For the purposes of this clause, the expression “company” includes any body corporate;]

(47) “independent director” means an independent director referred to in sub-section (6) of section 149;

(48) “Indian Depository Receipt” means any instrument in the form of a depository receipt created by a domestic depository in India and authorised by a company incorporated outside India making an issue of such depository receipts;

* * * *

(50) “issued capital” means such capital as the company issues from time to time for subscription;

(51) “key managerial personnel”, in relation to a company, means—

(i) the Chief Executive Officer or the managing director or the manager;

(ii) the company secretary;

(iii) the whole-time director;

(iv) the Chief Financial Officer; ^{3***}

⁴[(v) such other officer, not more than one level below the directors who is in whole-time employment, designated as key managerial personnel by the Board; and

(vi) such other officer as may be prescribed;]

(52) “listed company” means a company which has any of its securities listed on any recognised stock exchange:

⁵[Provided that such class of companies, which have listed or intend to list such class of securities, as may be prescribed in consultation with the Securities and Exchange Board, shall not be considered as listed companies.]

(53) “manager” means an individual who, subject to the superintendence, control and direction of the Board of Directors, has the management of the whole, or substantially the whole, of the affairs of a company, and includes a director or any other person occupying the position of a manager, by whatever name called, whether under a contract of service or not;

(54) “managing director” means a director who, by virtue of the articles of a company or an agreement with the company or a resolution passed in its general meeting, or by its Board of Directors, is entrusted with substantial powers of management of the affairs of the company and includes a director occupying the position of managing director, by whatever name called.

1. The *Explanation* ins. by Act 1 of 2018, s. 2 (w.e.f. 9-2-2018).

2. Clause (49) omitted by s. 2, *ibid.* (w.e.f. 9-2-2018).

3. The word “and” omitted by s. 2, *ibid.* (w.e.f. 9-2-2018).

4. Subs. by s. 2, *ibid.*, for sub-clause (v) (w.e.f. 9-2-2018).

5. The Proviso ins. by Act 29 of 2020, s. 2 (w.e.f. 22-1-2021).

Explanation.—For the purposes of this clause, the power to do administrative acts of a routine nature when so authorised by the Board such as the power to affix the common seal of the company to any document or to draw and endorse any cheque on the account of the company in any bank or to draw and endorse any negotiable instrument or to sign any certificate of share or to direct registration of transfer of any share, shall not be deemed to be included within the substantial powers of management;

(55) “member”, in relation to a company, means—

(i) the subscriber to the memorandum of the company who shall be deemed to have agreed to become member of the company, and on its registration, shall be entered as member in its register of members;

(ii) every other person who agrees in writing to become a member of the company and whose name is entered in the register of members of the company;

(iii) every person holding shares of the company and whose name is entered as a beneficial owner in the records of a depository;

(56) “memorandum” means the memorandum of association of a company as originally framed or as altered from time to time in pursuance of any previous company law or of this Act;

(57) “net worth” means the aggregate value of the paid-up share capital and all reserves created out of the profits ¹[, securities premium account and debit or credit balance of profit and loss account,] after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation;

(58) “notification” means a notification published in the Official Gazette and the expression “notify” shall be construed accordingly;

(59) “officer” includes any director, manager or key managerial personnel or any person in accordance with whose directions or instructions the Board of Directors or any one or more of the directors is or are accustomed to act;

(60) “officer who is in default”, for the purpose of any provision in this Act which enacts that an officer of the company who is in default shall be liable to any penalty or punishment by way of imprisonment, fine or otherwise, means any of the following officers of a company, namely:—

(i) whole-time director;

(ii) key managerial personnel;

(iii) where there is no key managerial personnel, such director or directors as specified by the Board in this behalf and who has or have given his or their consent in writing to the Board to such specification, or all the directors, if no director is so specified;

(iv) any person who, under the immediate authority of the Board or any key managerial personnel, is charged with any responsibility including maintenance, filing or distribution of accounts or records, authorises, actively participates in, knowingly permits, or knowingly fails to take active steps to prevent, any default;

(v) any person in accordance with whose advice, directions or instructions the Board of Directors of the company is accustomed to act, other than a person who gives advice to the Board in a professional capacity;

(vi) every director, in respect of a contravention of any of the provisions of this Act, who is aware of such contravention by virtue of the receipt by him of any proceedings of the Board or participation

1. Subs. by Act 1 of 2018, s. 2, for “and securities premium account” (w.e.f. 9-2-2018).

in such proceedings without objecting to the same, or where such contravention had taken place with his consent or connivance;

(vii) in respect of the issue or transfer of any shares of a company, the share transfer agents, registrars and merchant bankers to the issue or transfer;

(61) “Official Liquidator” means an Official Liquidator appointed under sub-section (1) of section 59;

(62) “One Person Company” means a company which has only one person as a member;

(63) “ordinary or special resolution” means an ordinary resolution, or as the case may be, special resolution referred to in section 114;

(64) “paid-up share capital” or “share capital paid-up” means such aggregate amount of money credited as paid-up as is equivalent to the amount received as paid-up in respect of shares issued and also includes any amount credited as paid-up in respect of shares of the company, but does not include any other amount received in respect of such shares, by whatever name called;

(65) “postal ballot” means voting by post or through any electronic mode;

(66) “prescribed” means prescribed by rules made under this Act;

(67) “previous company law” means any of the laws specified below:—

(i) Acts relating to companies in force before the Indian Companies Act, 1866 (10 of 1866);

(ii) the Indian Companies Act, 1866 (10 of 1866);

(iii) the Indian Companies Act, 1882 (6 of 1882);

(iv) the Indian Companies Act, 1913 (7 of 1913);

(v) the Registration of Transferred Companies Ordinance, 1942 (Ord. 54 of 1942);

(vi) the Companies Act, 1956 (1 of 1956); and

(vii) any law corresponding to any of the aforesaid Acts or the Ordinances and in force—

(A) in the merged territories or in a Part B State (other than the State of Jammu and Kashmir*), or any part thereof, before the extension thereto of the Indian Companies Act, 1913 (7 of 1913); or

(B) in the State of Jammu and Kashmir*, or any part thereof, before the commencement of the Jammu and Kashmir (Extension of Laws) Act, 1956 (62 of 1956), in so far as banking, insurance and financial corporations are concerned, and before the commencement of the Central Laws (Extension to Jammu and Kashmir) Act, 1968 (25 of 1968), in so far as other corporations are concerned;

(viii) the Portuguese Commercial Code, in so far as it relates to *sociedades anonimas*; and

(ix) the Registration of Companies (Sikkim) Act, 1961 (Sikkim Act 8 of 1961);

(68) “private company” means a company having a minimum paid-up share capital ^{1***} as may be prescribed, and which by its articles,—

(i) restricts the right to transfer its shares;

(ii) except in case of One Person Company, limits the number of its members to two hundred:

Provided that where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this clause, be treated as a single member:

1. The words “of one lakh rupees or such higher paid-up share capital” omitted by Act 21 of 2015, s. 2 (w.e.f. 29-5-2015).

*. *Vide* Notification No. S.O. 3912 (E), dated 30th October, 2019, this Act is made applicable to the Union territory of Jammu and Kashmir and the Union territory of Ladakh.

Provided further that—

(A) persons who are in the employment of the company; and

(B) persons who, having been formerly in the employment of the company, were members of the company while in that employment and have continued to be members after the employment ceased, shall not be included in the number of members; and

(iii) prohibits any invitation to the public to subscribe for any securities of the company;

(69) “promoter” means a person—

(a) who has been named as such in a prospectus or is identified by the company in the annual return referred to in section 92; or

(b) who has control over the affairs of the company, directly or indirectly whether as a shareholder, director or otherwise; or

(c) in accordance with whose advice, directions or instructions the Board of Directors of the company is accustomed to act:

Provided that nothing in sub-clause (c) shall apply to a person who is acting merely in a professional capacity;

(70) “prospectus” means any document described or issued as a prospectus and includes a red herring prospectus referred to in section 32 or shelf prospectus referred to in section 31 or any notice, circular, advertisement or other document inviting offers from the public for the subscription or purchase of any securities of a body corporate;

(71) “public company” means a company which—

(a) is not a private company;¹ [and]

(b) has a minimum paid-up share capital^{2***} as may be prescribed:

Provided that a company which is a subsidiary of a company, not being a private company, shall be deemed to be public company for the purposes of this Act even where such subsidiary company continues to be a private company in its articles ;

(72) “public financial institution” means—

(i) the Life Insurance Corporation of India, established under section 3 of the Life Insurance Corporation Act, 1956 (31 of 1956);

(ii) the Infrastructure Development Finance Company Limited, referred to in clause (vi) of sub-section (I) of section 4A of the Companies Act, 1956 (1 of 1956) so repealed under section 465 of this Act;

(iii) specified company referred to in the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

(iv) institutions notified by the Central Government under sub-section (2) of section 4A of the Companies Act, 1956 (1 of 1956) so repealed under section 465 of this Act;

(v) such other institution as may be notified by the Central Government in consultation with the Reserve Bank of India:

Provided that no institution shall be so notified unless—

(A) it has been established or constituted by or under any Central or State Act¹ [other than this Act or the previous company law]; or

1. Ins. by Act 1 of 2018, s. 2 (w.e.f. 9-2-2018).

2. The words “of five lakh rupees or such higher paid-up capital,” omitted by Act 21 of 2015, s. 2 (w.e.f. 29-5-2015).

(B) not less than fifty-one per cent. of the paid-up share capital is held or controlled by the Central Government or by any State Government or Governments or partly by the Central Government and partly by one or more State Governments;

(73) “recognised stock exchange” means a recognised stock exchange as defined in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(74) “register of companies” means the register of companies maintained by the Registrar on paper or in any electronic mode under this Act;

(75) “Registrar” means a Registrar, an Additional Registrar, a Joint Registrar, a Deputy Registrar or an Assistant Registrar, having the duty of registering companies and discharging various functions under this Act;

(76) “related party”, with reference to a company, means—

(i) a director or his relative;

(ii) a key managerial personnel or his relative;

(iii) a firm, in which a director, manager or his relative is a partner;

(iv) a private company in which a director or manager ¹[or his relative] is a member or director;

(v) a public company in which a director or manager is a director ²[and holds] along with his relatives, more than two per cent. of its paid-up share capital;

(vi) any body corporate whose Board of Directors, managing director or manager is accustomed to act in accordance with the advice, directions or instructions of a director or manager;

(vii) any person on whose advice, directions or instructions a director or manager is accustomed to act:

Provided that nothing in sub-clauses (vi) and (vii) shall apply to the advice, directions or instructions given in a professional capacity;

³[(viii) any body corporate which is—

(A) a holding, subsidiary or an associate company of such company;

(B) a subsidiary of a holding company to which it is also a subsidiary; or

(C) an investing company or the venturer of the company.

Explanation.—For the purpose of this clause, “the investing company or the venturer of a company” means a body corporate whose investment in the company would result in the company becoming an associate company of the body corporate];

(ix) such other person as may be prescribed;

(77) “relative”, with reference to any person, means any one who is related to another, if—

(i) they are members of a Hindu Undivided Family;

(ii) they are husband and wife; or

(iii) one person is related to the other in such manner as may be prescribed;

(78) “remuneration” means any money or its equivalent given or passed to any person for services rendered by him and includes perquisites as defined under the Income-tax Act, 1961 (43 of 1961);

(79) “Schedule” means a Schedule annexed to this Act;

1. Ins. by S.O. 1894 (E), dated 24th July, 2014.

2. Subs. by S.O. 1820 (E), dated 9th July, 2014 for “or holds” .

3. Subs. by Act 1 of 2018, s. 2, for sub-clause (viii) (w.e.f. 9-2-2018).

(80) "scheduled bank" means the scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934 (2 of 1934);

(81) "securities" means the securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(82) "Securities and Exchange Board" means the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(83) "Serious Fraud Investigation Office" means the office referred to in section 211;

(84) "share" means a share in the share capital of a company and includes stock;

(85) "small company" means a company, other than a public company,—

(i) paid-up share capital of which does not exceed fifty lakh rupees or such higher amount as may be prescribed which shall not be more than ¹[ten crore rupees]; ²[and]

(ii) turnover of which ³[as per profit and loss account for the immediately preceding financial year] does not exceed two crore rupees or such higher amount as may be prescribed which shall not be more than ⁴[one hundred crore rupees]:

Provided that nothing in this clause shall apply to—

(A) a holding company or a subsidiary company;

(B) a company registered under section 8; or

(C) a company or body corporate governed by any special Act;

(86) "subscribed capital" means such part of the capital which is for the time being subscribed by the members of a company;

(87) "subsidiary company" or "subsidiary", in relation to any other company (that is to say the holding company), means a company in which the holding company—

(i) controls the composition of the Board of Directors; or

(ii) exercises or controls more than one-half of the ⁵[total voting power] either at its own or together with one or more of its subsidiary companies:

Provided that such class or classes of holding companies as may be prescribed shall not have layers of subsidiaries beyond such numbers as may be prescribed.

Explanation.—For the purposes of this clause,—

(a) a company shall be deemed to be a subsidiary company of the holding company even if the control referred to in sub-clause (i) or sub-clause (ii) is of another subsidiary company of the holding company;

(b) the composition of a company's Board of Directors shall be deemed to be controlled by another company if that other company by exercise of some power exercisable by it at its discretion can appoint or remove all or a majority of the directors;

(c) the expression "company" includes any body corporate;

(d) "layer" in relation to a holding company means its subsidiary or subsidiaries;

1. Subs. by Act 1 of 2018, s. 2, for "five crore rupees" (w.e.f. 9-2-2018).

2. Subs. by notification No. S.O. 504(E), dated 13th February, 2015, for word "or" (w.e.f. 13-2-2015).

3. Subs. by Act 1 of 2018, s. 2, for "as per its last profit and loss account" (w.e.f. 9-2-2018).

4. Subs. by s. 2, *ibid.*, for "twenty crore rupees" (w.e.f. 9-2-2018).

5. Subs. by s. 2, *ibid.*, for "total share capital" (w.e.f. 7-5-2018).

(88) "sweat equity shares" means such equity shares as are issued by a company to its directors or employees at a discount or for consideration, other than cash, for providing their know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called;

(89) "total voting power", in relation to any matter, means the total number of votes which may be cast in regard to that matter on a poll at a meeting of a company if all the members thereof or their proxies having a right to vote on that matter are present at the meeting and cast their votes;

(90) "Tribunal" means the National Company Law Tribunal constituted under section 408;

¹[(91) "turnover" means gross amount of revenue recognised in the profit and loss account from the sale, supply, or distribution of goods or on account of services rendered, or both, by a company during a financial year;]

(92) "unlimited company" means a company not having any limit on the liability of its members;

(93) "voting right" means the right of a member of a company to vote in any meeting of the company or by means of postal ballot;

(94) "whole-time director" includes a director in the whole-time employment of the company;

²[(94A) "winding up" means winding up under this Act or liquidation under the Insolvency and Bankruptcy Code, 2016 (31 of 2016), as applicable;]

(95) words and expressions used and not defined in this Act but defined in the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of 1992) or the Depositories Act, 1996 (22 of 1996) shall have the meanings respectively assigned to them in those Acts.

CHAPTER II

INCORPORATION OF COMPANY AND MATTERS INCIDENTAL THERETO

3. Formation of company.—(1) A company may be formed for any lawful purpose by—

(a) seven or more persons, where the company to be formed is to be a public company;

(b) two or more persons, where the company to be formed is to be a private company; or

(c) one person, where the company to be formed is to be One Person Company that is to say, a private company,

by subscribing their names or his name to a memorandum and complying with the requirements of this Act in respect of registration:

Provided that the memorandum of One Person Company shall indicate the name of the other person, with his prior written consent in the prescribed form, who shall, in the event of the subscriber's death or his incapacity to contract become the member of the company and the written consent of such person shall also be filed with the Registrar at the time of incorporation of the One Person Company along with its memorandum and articles:

Provided further that such other person may withdraw his consent in such manner as may be prescribed:

Provided also that the member of One Person Company may at any time change the name of such other person by giving notice in such manner as may be prescribed:

Provided also that it shall be the duty of the member of One Person Company to intimate the company the change, if any, in the name of the other person nominated by him by indicating in the memorandum or otherwise within such time and in such manner as maybe prescribed, and the company shall intimate the Registrar any such change within such time and in such manner as may be prescribed:

Provided also that any such change in the name of the person shall not be deemed to be an alteration of the memorandum.

1. Subs. by Act 1 of 2018, s. 2, for clause (91) (w.e.f. 9-2-2018).

2. Ins. by Act 31 of 2016, s. 255 and the Eleventh Schedule (w.e.f. 15-11-2016).

(2) A company formed under sub-section (1) may be either—

- (a) a company limited by shares; or
- (b) a company limited by guarantee; or
- (c) an unlimited company.

[3A. Members severally liable in certain cases.]—If at any time the number of members of a company is reduced, in the case of a public company, below seven, in the case of a private company, below two, and the company carries on business for more than six months while the number of members is so reduced, every person who is a member of the company during the time that it so carries on business after those six months and is cognisant of the fact that it is carrying on business with less than seven members or two members, as the case may be, shall be severally liable for the payment of the whole debts of the company contracted during that time, and may be severally sued therefor.]

4. Memorandum.—(1) The memorandum of a company shall state—

(a) the name of the company with the last word “Limited” in the case of a public limited company, or the last words “Private Limited” in the case of a private limited company:

Provided that nothing in this clause shall apply to a company registered under section 8;

(b) the State in which the registered office of the company is to be situated;

(c) the objects for which the company is proposed to be incorporated and any matter considered necessary in furtherance thereof;

(d) the liability of members of the company, whether limited or unlimited, and also state,—

(i) in the case of a company limited by shares, that liability of its members is limited to the amount unpaid, if any, on the shares held by them; and

(ii) in the case of a company limited by guarantee, the amount up to which each member undertakes to contribute—

(A) to the assets of the company in the event of its being wound up while he is a member or within one year after he ceases to be a member, for payment of the debts and liabilities of the company or of such debts and liabilities as may have been contracted before he ceases to be a member, as the case may be; and

(B) to the costs, charges and expenses of winding up and for adjustment of the rights of the contributories among themselves;

(e) in the case of a company having a share capital,—

(i) the amount of share capital with which the company is to be registered and the division thereof into shares of a fixed amount and the number of shares which the subscribers to the memorandum agree to subscribe which shall not be less than one share; and

(ii) the number of shares each subscriber to the memorandum intends to take, indicated opposite his name;

(f) in the case of One Person Company, the name of the person who, in the event of death of the subscriber, shall become the member of the company.

(2) The name stated in the memorandum shall not—

(a) be identical with or resemble too nearly to the name of an existing company registered under this Act or any previous company law; or

(b) be such that its use by the company—

(i) will constitute an offence under any law for the time being in force; or

(ii) is undesirable in the opinion of the Central Government.

(3) Without prejudice to the provisions of sub-section (2), a company shall not be registered with a name which contains—

(a) any word or expression which is likely to give the impression that the company is in any way connected with, or having the patronage of, the Central Government, any State Government, or any local authority, corporation or body constituted by the Central Government or any State Government under any law for the time being in force; or

1. Ins. by Act 1 of 2018, s. 3 (w.e.f. 9-2-2018).

(b) such word or expression, as may be prescribed, unless the previous approval of the Central Government has been obtained for the use of any such word or expression.

(4) A person may make an application, in such form and manner and accompanied by such fee, as may be prescribed, to the Registrar for the reservation of a name set out in the application as—

(a) the name of the proposed company; or

(b) the name to which the company proposes to change its name.

(5) ¹[(i) Upon receipt of an application under sub-section (4), the Registrar may, on the basis of information and documents furnished along with the application, reserve the name for a period of twenty days from the date of approval or such other period as may be prescribed:

Provided that in case of an application for reservation of name or for change of its name by an existing company, the Registrar may reserve the name for a period of sixty days from the date of approval.]

(ii) Where after reservation of name under clause (i), it is found that name was applied by furnishing wrong or incorrect information, then,—

(a) if the company has not been incorporated, the reserved name shall be cancelled and the person making application under sub-section (4) shall be liable to a penalty which may extend to one lakh rupees;

(b) if the company has been incorporated, the Registrar may, after giving the company an opportunity of being heard—

(i) either direct the company to change its name within a period of three months, after passing an ordinary resolution;

(ii) take action for striking off the name of the company from the register of companies; or

(iii) make a petition for winding up of the company.

(6) The memorandum of a company shall be in respective forms specified in Tables A, B, C, D and E in Schedule I as may be applicable to such company.

(7) Any provision in the memorandum or articles, in the case of a company limited by guarantee and not having a share capital, purporting to give any person a right to participate in the divisible profits of the company otherwise than as a member, shall be void.

5. Articles.—(1) The articles of a company shall contain the regulations for management of the company.

(2) The articles shall also contain such matters, as may be prescribed:

Provided that nothing prescribed in this sub-section shall be deemed to prevent a company from including such additional matters in its articles as may be considered necessary for its management.

(3) The articles may contain provisions for entrenchment to the effect that specified provisions of the articles may be altered only if conditions or procedures as that are more restrictive than those applicable in the case of a special resolution, are met or complied with.

(4) The provisions for entrenchment referred to in sub-section (3) shall only be made either on formation of a company, or by an amendment in the articles agreed to by all the members of the company in the case of a private company and by a special resolution in the case of a public company.

(5) Where the articles contain provisions for entrenchment, whether made on formation or by amendment, the company shall give notice to the Registrar of such provisions in such form and manner as may be prescribed.

(6) The articles of a company shall be in respective forms specified in Tables, F, G, H, I and J in Schedule I as may be applicable to such company.

1. Subs. by Act 1 of 2018, s. 4, for clause (i) (w.e.f. 26-1-2018).

(7) A company may adopt all or any of the regulations contained in the model articles applicable to such company.

(8) In case of any company, which is registered after the commencement of this Act, in so far as the registered articles of such company do not exclude or modify the regulations contained in the model articles applicable to such company, those regulations shall, so far as applicable, be the regulations of that company in the same manner and to the extent as if they were contained in the duly registered articles of the company.

(9) Nothing in this section shall apply to the articles of a company registered under any previous company law unless amended under this Act.

6. Act to override memorandum, articles, etc.—Save as otherwise expressly provided in this Act—

(a) the provisions of this Act shall have effect notwithstanding anything to the contrary contained in the memorandum or articles of a company, or in any agreement executed by it, or in any resolution passed by the 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 this Act; and

(b) any provision contained in the memorandum, articles, agreement or resolution shall, to the extent to which it is repugnant to the provisions of this Act, become or be void, as the case may be.

7. Incorporation of company.—(1) There shall be filed with the Registrar within whose jurisdiction the registered office of a company is proposed to be situated, the following documents and information for registration, namely:—

(a) the memorandum and articles of the company duly signed by all the subscribers to the memorandum in such manner as may be prescribed;

(b) a declaration in the prescribed form by an advocate, a chartered accountant, cost accountant or company secretary in practice, who is engaged in the formation of the company, and by a person named in the articles as a director, manager or secretary of the company, that all the requirements of this Act and the rules made thereunder in respect of registration and matters precedent or incidental thereto have been complied with;

(c) ¹[a declaration] from each of the subscribers to the memorandum and from persons named as the first directors, if any, in the articles that he is not convicted of any offence in connection with the promotion, formation or management of any company, or that he has not been found guilty of any fraud or misfeasance or of any breach of duty to any company under this Act or any previous company law during the preceding five years and that all the documents filed with the Registrar for registration of the company contain information that is correct and complete and true to the best of his knowledge and belief;

(d) the address for correspondence till its registered office is established;

(e) the particulars of name, including surname or family name, residential address, nationality and such other particulars of every subscriber to the memorandum along with proof of identity, as may be prescribed, and in the case of a subscriber being a body corporate, such particulars as may be prescribed;

(f) the particulars of the persons mentioned in the articles as the first directors of the company, their names, including surnames or family names, the Director Identification Number, residential address, nationality and such other particulars including proof of identity as may be prescribed; and

(g) the particulars of the interests of the persons mentioned in the articles as the first directors of the company in other firms or bodies corporate along with their consent to act as directors of the company in such form and manner as may be prescribed.

(2) The Registrar on the basis of documents and information filed under sub-section (1) shall register all the documents and information referred to in that sub-section in the register and issue a certificate of incorporation in the prescribed form to the effect that the proposed company is incorporated under this Act.

(3) On and from the date mentioned in the certificate of incorporation issued under sub-section (2), the Registrar shall allot to the company a corporate identity number, which shall be a distinct identity for the company and which shall also be included in the certificate.

1. Subs. by Act 1 of 2018, s. 5, for “an affidavit” (w.e.f. 27-7-2018).

(4) The company shall maintain and preserve at its registered office copies of all documents and information as originally filed under sub-section (1) till its dissolution under this Act.

(5) If any person furnishes any false or incorrect particulars of any information or suppresses any material information, of which he is aware in any of the documents filed with the Registrar in relation to the registration of a company, he shall be liable for action under section 447.

(6) Without prejudice to the provisions of sub-section (5) where, at any time after the incorporation of a company, it is proved that the company has been got incorporated by furnishing any false or incorrect information or representation or by suppressing any material fact or information in any of the documents or declaration filed or made for incorporating such company, or by any fraudulent action, the promoters, the persons named as the first directors of the company and the persons making declaration under clause (b) of sub-section(1) shall each be liable for action under section 447.

(7) Without prejudice to the provisions of sub-section (6), where a company has been got incorporated by furnishing any false or incorrect information or representation or by suppressing any material fact or information in any of the documents or declaration filed or made for incorporating such company or by any fraudulent action, the Tribunal may, on an application made to it, on being satisfied that the situation so warrants,—

- (a) pass such orders, as it may think fit, for regulation of the management of the company including changes, if any, in its memorandum and articles, in public interest or in the interest of the company and its members and creditors; or
- (b) direct that liability of the members shall be unlimited; or
- (c) direct removal of the name of the company from the register of companies; or
- (d) pass an order for the winding up of the company; or
- (e) pass such other orders as it may deem fit:

Provided that before making any order under this sub-section,—

- (i) the company shall be given a reasonable opportunity of being heard in the matter; and
- (ii) the Tribunal shall take into consideration the transactions entered into by the company, including the obligations, if any, contracted or payment of any liability.

8. Formation of companies with charitable objects, etc.—(1) Where it is proved to the satisfaction of the Central Government that a person or an association of persons proposed to be registered under this Act as a limited company—

- (a) has in its objects the promotion of commerce, art, science, sports, education, research, social welfare, religion, charity, protection of environment or any such other object;
- (b) intends to apply its profits, if any, or other income in promoting its objects; and
- (c) intends to prohibit the payment of any dividend to its members,

the Central Government may, by licence issued in such manner as may be prescribed, and on such conditions as it deems fit, allow that person or association of persons to be registered as a limited company under this section without the addition to its name of the word “Limited”, or as the case may be, the words “Private Limited”, and thereupon the Registrar shall, on application, in the prescribed form, register such person or association of persons as a company under this section.

(2) The company registered under this section shall enjoy all the privileges and be subject to all the obligations of limited companies.

(3) A firm may be a member of the company registered under this section.

(4) (i) A company registered under this section shall not alter the provisions of its memorandum or articles except with the previous approval of the Central Government.

(ii) A company registered under this section may convert itself into company of any other kind only after complying with such conditions as may be prescribed.

(5) Where it is proved to the satisfaction of the Central Government that a limited company registered under this Act or under any previous company law has been formed with any of the objects specified in clause (a) of sub-section (1) and with the restrictions and prohibitions as mentioned respectively in clauses (b) and (c) of that sub-section, it may, by licence, allow the company to be registered under this section subject to such conditions as the Central Government deems fit and to change its name by omitting the word "Limited", or as the case may be, the words "Private Limited" from its name and thereupon the Registrar shall, on application, in the prescribed form, register such company under this section and all the provisions of this section shall apply to that company.

(6) The Central Government may, by order, revoke the licence granted to a company registered under this section if the company contravenes any of the requirements of this section or any of the conditions subject to which a licence is issued or the affairs of the company are conducted fraudulently or in a manner violative of the objects of the company or prejudicial to public interest, and without prejudice to any other action against the company under this Act, direct the company to convert its status and change its name to add the word "Limited" or the words "Private Limited", as the case may be, to its name and thereupon the Registrar shall, without prejudice to any action that may be taken under sub-section (7), on application, in the prescribed form, register the company accordingly:

Provided that no such order shall be made unless the company is given a reasonable opportunity of being heard:

Provided further that a copy of every such order shall be given to the Registrar.

(7) Where a licence is revoked under sub-section (6), the Central Government may, by order, if it is satisfied that it is essential in the public interest, direct that the company be wound up under this Act or amalgamated with another company registered under this section:

Provided that no such order shall be made unless the company is given a reasonable opportunity of being heard.

(8) Where a licence is revoked under sub-section (6) and where the Central Government is satisfied that it is essential in the public interest that the company registered under this section should be amalgamated with another company registered under this section and having similar objects, then, notwithstanding anything to the contrary contained in this Act, the Central Government may, by order, provide for such amalgamation to form a single company with such constitution, properties, powers, rights, interest, authorities and privileges and with such liabilities, duties and obligations as may be specified in the order.

(9) If on the winding up or dissolution of a company registered under this section, there remains, after the satisfaction of its debts and liabilities, any asset, they may be transferred to another company registered under this section and having similar objects, subject to such conditions as the Tribunal may impose, or may be sold and proceeds thereof credited to ¹[Insolvency and Bankruptcy Fund formed under section 224 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016)].

(10) A company registered under this section shall amalgamate only with another company registered under this section and having similar objects.

(11) If a company makes any default in complying with any of the requirements laid down in this section, the company shall, without prejudice to any other action under the provisions of this section, be punishable with fine which shall not be less than ten lakh rupees but which may extend to one crore rupees and the directors and every officer of the company who is in default shall be punishable ^{2***} with fine which shall not be less than twenty-five thousand rupees but which may extend to ³[twenty-five lakh rupees]:

Provided that when it is proved that the affairs of the company were conducted fraudulently, every officer in default shall be liable for action under section 447.

9. Effect of registration.—From the date of incorporation mentioned in the certificate of incorporation, such subscribers to the memorandum and all other persons, as may, from time to time, become members

1. Subs. by Act 31 of 2016, s. 255 and the Eleventh Schedule, for "the Rehabilitation and Insolvency Fund formed under section 269" (w.e.f. 15-11-2016).

2. The words "with imprisonment for a term which may extend to three years or" omitted by Act 29 of 2020, s. 3 (w.e.f. 21-12-2020).

3. Subs. by Act 29 of 2020, s. 3, for "twenty-five lakh rupees, or with both" (w.e.f. 21-12-2020).

of the company, shall be a body corporate by the name contained in the memorandum, capable of exercising all the functions of an incorporated company under this Act and having perpetual succession ^{1***} with power to acquire, hold and dispose of property, both movable and immovable, tangible and intangible, to contract and to sue and be sued, by the said name.

10. Effect of memorandum and articles.—(1) Subject to the provisions of this Act, the memorandum and articles shall, when registered, bind the company and the members thereof to the same extent as if they respectively had been signed by the company and by each member, and contained covenants on its and his part to observe all the provisions of the memorandum and of the articles.

(2) All monies payable by any member to the company under the memorandum or articles shall be a debt due from him to the company.

²[10A. Commencement of business, etc.]—(1) A company incorporated after the commencement of the Companies (Amendment) Act, 2019 and having a share capital shall not commence any business or exercise any borrowing powers unless—

(a) a declaration is filed by a director within a period of one hundred and eighty days of the date of incorporation of the company in such form and verified in such manner as may be prescribed, with the Registrar that every subscriber to the memorandum has paid the value of the shares agreed to be taken by him on the date of making of such declaration; and

(b) the company has filed with the Registrar a verification of its registered office as provided in sub-section (2) of section 12.

(2) If any default is made in complying with the requirements of this section, the company shall be liable to a penalty of fifty thousand rupees and every officer who is in default shall be liable to a penalty of one thousand rupees for each day during which such default continues but not exceeding an amount of one lakh rupees.

(3) Where no declaration has been filed with the Registrar under clause (a) of sub-section (1) within a period of one hundred and eighty days of the date of incorporation of the company and the Registrar has reasonable cause to believe that the company is not carrying on any business or operations, he may, without prejudice to the provisions of sub-section (2), initiate action for the removal of the name of the company from the register of companies under Chapter XVIII.]

11. [Commencement of business, etc.] *Omitted by the Companies (Amendment) Act, 2015 (21 of 2015), s. 4 (w.e.f. 29-5-2015).*

12. Registered office of company.—(1) A company shall, ³[within thirty days of its incorporation] and at all times thereafter, have a registered office capable of receiving and acknowledging all communications and notices as may be addressed to it.

(2) The company shall furnish to the Registrar verification of its registered office within a period of thirty days of its incorporation in such manner as may be prescribed.

(3) Every company shall—

(a) paint or affix its name, and the address of its registered office, and keep the same painted or affixed, on the outside of every office or place in which its business is carried on, in a conspicuous position, in legible letters, and if the characters employed therefor are not those of the language or of one of the languages in general use in that locality, also in the characters of that language or of one of those languages;

⁴[(b) have its name engraved in legible characters on its seal, if any;]

(c) get its name, address of its registered office and the Corporate Identity Number along with telephone number, fax number, if any, e-mail and website addresses, if any, printed in all its business letters, billheads, letter papers and in all its notices and other official publications; and

1. The words “and a common seal” omitted by Act 21 of 2015, s. 3 (w.e.f. 29-5-2015).

2. Ins. by Act 22 of 2019, s. 3 (w.e.f. 2-11-2018).

3. Subs. by Act 1 of 2018, s. 6, for “on and from the fifteenth day of its incorporation”(w.e.f. 27-7-2018).

4. Subs. by Act 21 of 2015, s. 5, for clause (b) (w.e.f. 29-5-2015).

(d) have its name printed on *hundies*, promissory notes, bills of exchange and such other documents as may be prescribed:

Provided that where a company has changed its name or names during the last two years, it shall paint or affix or print, as the case may be, along with its name, the former name or names so changed during the last two years as required under clauses (a) and (c):

Provided further that the words “One Person Company” shall be mentioned in brackets below the name of such company, wherever its name is printed, affixed or engraved.

(4) Notice of every change of the situation of the registered office, verified in the manner prescribed, after the date of incorporation of the company, shall be given to the Registrar ¹[within thirty days] of the change, who shall record the same.

(5) Except on the authority of a special resolution passed by a company, the registered office of the company shall not be changed,—

(a) in the case of an existing company, outside the local limits of any city, town or village where such office is situated at the commencement of this Act or where it may be situated later by virtue of a special resolution passed by the company; and

(b) in the case of any other company, outside the local limits of any city, town or village where such office is first situated or where it may be situated later by virtue of a special resolution passed by the company:

Provided that no company shall change the place of its registered office from the jurisdiction of one Registrar to the jurisdiction of another Registrar within the same State unless such change is confirmed by the Regional Director on an application made in this behalf by the company in the prescribed manner.

(6) The confirmation referred to in sub-section (5) shall be communicated within a period of thirty days from the date of receipt of application by the Regional Director to the company and the company shall file the confirmation with the Registrar within a period of sixty days of the date of confirmation who shall register the same and certify the registration within a period of thirty days from the date of filing of such confirmation.

(7) The certificate referred to in sub-section (6) shall be conclusive evidence that all the requirements of this Act with respect to change of registered office in pursuance of sub-section (5) have been complied with and the change shall take effect from the date of the certificate.

(8) If any default is made in complying with the requirements of this section, the company and every officer who is in default shall be liable to a penalty of one thousand rupees for every day during which the default continues but not exceeding one lakh rupees.

²[(9) If the Registrar has reasonable cause to believe that the company is not carrying on any business or operations, he may cause a physical verification of the registered office of the company in such manner as may be prescribed and if any default is found to be made in complying with the requirements of sub-section (1), he may without prejudice to the provisions of sub-section (8), initiate action for the removal of the name of the company from the register of companies under Chapter XVIII.]

13. Alteration of memorandum.—(1) Save as provided in section 61, a company may, by a special resolution and after complying with the procedure specified in this section, alter the provisions of its memorandum.

(2) Any change in the name of a company shall be subject to the provisions of sub-sections (2) and (3) of section 4 and shall not have effect except with the approval of the Central Government in writing:

Provided that no such approval shall be necessary where the only change in the name of the company is the deletion therefrom, or addition thereto, of the word “Private”, consequent on the conversion of any one class of companies to another class in accordance with the provisions of this Act.

1. Subs. by Act 1 of 2018, s. 6, for “within fifteen days” (w.e.f. 27-7-2018).

2. Ins. by Act 22 of 2019, s. 4 (w.e.f. 2-11-2018).

(3) When any change in the name of a company is made under sub-section (2), the Registrar shall enter the new name in the register of companies in place of the old name and issue a fresh certificate of incorporation with the new name and the change in the name shall be complete and effective only on the issue of such a certificate.

(4) The alteration of the memorandum relating to the place of the registered office from one State to another shall not have any effect unless it is approved by the Central Government on an application in such form and manner as may be prescribed.

(5) The Central Government shall dispose of the application under sub-section (4) within a period of sixty days and before passing its order may satisfy itself that the alteration has the consent of the creditors, debenture-holders and other persons concerned with the company or that the sufficient provision has been made by the company either for the due discharge of all its debts and obligations or that adequate security has been provided for such discharge.

(6) Save as provided in section 64, a company shall, in relation to any alteration of its memorandum, file with the Registrar—

(a) the special resolution passed by the company under sub-section (1);

(b) the approval of the Central Government under sub-section (2), if the alteration involves any change in the name of the company.

(7) Where an alteration of the memorandum results in the transfer of the registered office of a company from one State to another, a certified copy of the order of the Central Government approving the alteration shall be filed by the company with the Registrar of each of the States within such time and in such manner as may be prescribed, who shall register the same, and the Registrar of the State where the registered office is being shifted to, shall issue a fresh certificate of incorporation indicating the alteration.

(8) A company, which has raised money from public through prospectus and still has any unutilised amount out of the money so raised, shall not change its objects for which it raised the money through prospectus unless a special resolution is passed by the company and—

(i) the details, as may be prescribed, in respect of such resolution shall also be published in the newspapers (one in English and one in vernacular language) which is in circulation at the place where the registered office of the company is situated and shall also be placed on the website of the company, if any, indicating therein the justification for such change;

(ii) the dissenting shareholders shall be given an opportunity to exit by the promoters and shareholders having control in accordance with regulations to be specified by the Securities and Exchange Board.

(9) The Registrar shall register any alteration of the memorandum with respect to the objects of the company and certify the registration within a period of thirty days from the date of filing of the special resolution in accordance with clause (a) of sub-section (6) of this section.

(10) No alteration made under this section shall have any effect until it has been registered in accordance with the provisions of this section.

(11) Any alteration of the memorandum, in the case of a company limited by guarantee and not having a share capital, purporting to give any person a right to participate in the divisible profits of the company otherwise than as a member, shall be void.

14. Alteration of articles.—(1) Subject to the provisions of this Act and the conditions contained in its memorandum, if any, a company may, by a special resolution, alter its articles including alterations having the effect of conversion of—

(a) a private company into a public company; or

(b) a public company into a private company:

Provided that where a company being a private company alters its articles in such a manner that they no longer include the restrictions and limitations which are required to be included in the articles of a private

company under this Act, the company shall, as from the date of such alteration, cease to be a private company:

¹[Provided further that any alteration having the effect of conversion of a public company into a private company shall not be valid unless it is approved by an order of the Central Government on an application made in such form and manner as may be prescribed:

Provided also that any application pending before the Tribunal, as on the date of commencement of the Companies (amendment) Act, 2019, shall be disposed of by the Tribunal in accordance with the provisions applicable to it before such commencement.]

(2) Every alteration of the articles under this section and a copy of the order of the ²[Central Government] approving the alteration as per sub-section (1) shall be filed with the Registrar, together with a printed copy of the altered articles, within a period of fifteen days in such manner as may be prescribed, who shall register the same.

(3) Any alteration of the articles registered under sub-section (2) shall, subject to the provisions of this Act, be valid as if it were originally in the articles.

15. Alteration of memorandum or articles to be noted in every copy.—(1) Every alteration made in the memorandum or articles of a company shall be noted in every copy of the memorandum or articles, as the case may be.

(2) If a company makes any default in complying with the provisions of sub-section (1), the company and every officer who is in default shall be liable to a penalty of one thousand rupees for every copy of the memorandum or articles issued without such alteration.

16. Rectification of name of company.—(1) If, through inadvertence or otherwise, a company on its first registration or on its registration by a new name, is registered by a name which,—

(a) in the opinion of the Central Government, is identical with or too nearly resembles the name by which a company in existence had been previously registered, whether under this Act or any previous company law, it may direct the company to change its name and the company shall change its name or new name, as the case may be, within a period of three months from the issue of such direction, after adopting an ordinary resolution for the purpose;

(b) on an application by a registered proprietor of a trade mark that the name is identical with or too nearly resembles to a registered trade mark of such proprietor under the Trade Marks Act, 1999 (47 of 1999), made to the Central Government within three years of incorporation or registration or change of name of the company, whether under this Act or any previous company law, in the opinion of the Central Government, is identical with or too nearly resembles to an existing trade mark, it may direct the company to change its name and the company shall change its name or new name, as the case may be, within a ³[period of three months] from the issue of such direction, after adopting an ordinary resolution for the purpose.

(2) Where a company changes its name or obtains a new name under sub-section (1), it shall within a period of fifteen days from the date of such change, give notice of the change to the Registrar along with the order of the Central Government, who shall carry out necessary changes in the certificate of incorporation and the memorandum.

⁴[(3) If a company is in default in complying with any direction given under sub-section (1), the Central Government shall allot a new name to the company in such manner as may be prescribed and the Registrar shall enter the new name in the register of companies in place of the old name and issue a fresh certificate of incorporation with the new name, which the company shall use thereafter:

Provided that nothing in this sub-section shall prevent a company from subsequently changing its name in accordance with the provisions of section 13.]

17. Copies of memorandum, articles, etc., to be given to members.—(1) A company shall, on being so requested by a member, send to him within seven days of the request and subject to the payment of such fees as may be prescribed, a copy of each of the following documents, namely:—

1. Subs. by Act 22 of 2019, s. 5, for the Proviso (w.e.f. 2-11-2018).

2. Subs. by s. 5, *ibid.*, for “Tribunal” (w.e.f. 2-11-2018).

3. Subs. by Act 29 of 2020, s. 4, for “period of six months” (w.e.f. 1-9-2021).

4. Subs. by s. 4, *ibid.*, for sub-section (3) (w.e.f. 1-9-2021).

(a) the memorandum;

(b) the articles; and

(c) every agreement and every resolution referred to in sub-section (1) of section 117, if and in so far as they have not been embodied in the memorandum or articles.

(2) If a company makes any default in complying with the provisions of this section, the company and every officer of the company who is in default shall be liable for each default, to a penalty of one thousand rupees for each day during which such default continues or one lakh rupees, whichever is less.

18. Conversion of companies already registered.—(1) A company of any class registered under this Act may convert itself as a company of other class under this Act by alteration of memorandum and articles of the company in accordance with the provisions of this Chapter.

(2) Where the conversion is required to be done under this section, the Registrar shall on an application made by the company, after satisfying himself that the provisions of this Chapter applicable for registration of companies have been complied with, close the former registration of the company and after registering the documents referred to in sub-section (1), issue a certificate of incorporation in the same manner as its first registration.

(3) The registration of a company under this section shall not affect any debts, liabilities, obligations or contracts incurred or entered into, by or on behalf of the company before conversion and such debts, liabilities, obligations and contracts may be enforced in the manner as if such registration had not been done.

19. Subsidiary company not to hold shares in its holding company.—(1) No company shall, either by itself or through its nominees, hold any shares in its holding company and no holding company shall allot or transfer its shares to any of its subsidiary companies and any such allotment or transfer of shares of a company to its subsidiary company shall be void:

Provided that nothing in this sub-section shall apply to a case—

(a) where the subsidiary company holds such shares as the legal representative of a deceased member of the holding company; or

(b) where the subsidiary company holds such shares as a trustee; or

(c) where the subsidiary company is a shareholder even before it became a subsidiary company of the holding company:

Provided further that the subsidiary company referred to in the preceding proviso shall have a right to vote at a meeting of the holding company only in respect of the shares held by it as a legal representative or as a trustee, as referred to in clause (a) or clause (b) of the said proviso.

(2) The reference in this section to the shares of a holding company which is a company limited by guarantee or an unlimited company, not having a share capital, shall be construed as a reference to the interest of its members, whatever be the form of interest.

20. Service of documents.—(1) A document may be served on a company or an officer thereof by sending it to the company or the officer at the registered office of the company by registered post or by speed post or by courier service or by leaving it at its registered office or by means of such electronic or other mode as may be prescribed:

Provided that where securities are held with a depository, the records of the beneficial ownership may be served by such depository on the company by means of electronic or other mode.

(2) Save as provided in this Act or the rules made thereunder for filing of documents with the Registrar in electronic mode, a document may be served on Registrar or any member by sending it to him by post or by registered post or by speed post or by courier or by delivering at his office or address, or by such electronic or other mode as may be prescribed:

Provided that a member may request for delivery of any document through a particular mode, for which he shall pay such fees as may be determined by the company in its annual general meeting.

Explanation.—For the purposes of this section, the term “courier” means a person or agency which delivers the document and provides proof of its delivery.

21. Authentication of documents, proceedings and contracts.—Save as otherwise provided in this Act,—

- (a) a document or proceeding requiring authentication by a company; or
- (b) contracts made by or on behalf of a company,

may be signed by any key managerial personnel or¹[an officer or employee of the company] duly authorised by the Board in this behalf.

22. Execution of bills of exchange, etc.—(1) A bill of exchange, *hundi* or promissory note shall be deemed to have been made, accepted, drawn or endorsed on behalf of a company if made, accepted, drawn, or endorsed in the name of, or on behalf of or on account of, the company by any person acting under its authority, express or implied.

(2) A company may, by writing²[under its common seal, if any,] authorise any person, either generally or in respect of any specified matters, as its attorney to execute other deeds on its behalf in any place either in or outside India:

³[Provided that in case a company does not have a common seal, the authorisation under this sub-section shall be made by two directors or by a director and the Company Secretary, wherever the company has appointed a Company Secretary.]

(3) A deed signed by such an attorney on behalf of the company and under his seal shall bind the company^{4***}.

CHAPTER III

PROSPECTUS AND ALLOTMENT OF SECURITIES

PART I.—*Public offer*

23. Public offer and private placement.—(1) A public company may issue securities—

(a) to public through prospectus (herein referred to as “public offer”) by complying with the provisions of this Part; or

(b) through private placement by complying with the provisions of Part II of this Chapter; or

(c) through a rights issue or a bonus issue in accordance with the provisions of this Act and in case of a listed company or a company which intends to get its securities listed also with the provisions of the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the rules and regulations made thereunder.

(2) A private company may issue securities—

(a) by way of rights issue or bonus issue in accordance with the provisions of this Act; or

(b) through private placement by complying with the provisions of Part II of this Chapter.

⁵[(3) Such class of public companies may issue such class of securities for the purposes of listing on permitted stock exchanges in permissible foreign jurisdictions or such other jurisdictions, as may be prescribed.

(4) The Central Government may, by notification, exempt any class or classes of public companies referred to in sub-section (3) from any of the provisions of this Chapter, Chapter IV, section 89, section 90 or section 127 and a copy of every such notification shall, as soon as may be after it is issued, be laid before both Houses of Parliament.]

Explanation.—For the purposes of this Chapter, “public offer” includes initial public offer or further public offer of securities to the public by a company, or an offer for sale of securities to the public by an existing shareholder, through issue of a prospectus.

24. Power of Securities and Exchange Board to regulate issue and transfer of securities, etc.—(1) The provisions contained in this Chapter, Chapter IV and in section 127 shall,—

(a) in so far as they relate to —

(i) issue and transfer of securities; and

1. Subs. by Act 1 of 2018, s. 7, for “an officer of the company” (w.e.f. 9-2-2018).

2. Subs. by Act 21 of 2015, s. 6, for “under its common seal” (w.e.f. 29-5-2015).

3. The proviso ins. by s. 6, *ibid.* (w.e.f. 29-5-2015).

4. The words “and have the effect as if it were made under its common seal” omitted by s. 6, *ibid.* (w.e.f. 29-5-2015).

5. Ins. by Act 29 of 2020, s. 5, (w.e.f. 30-10-2023).

(ii) non-payment of dividend,

by listed companies or those companies which intend to get their securities listed on any recognised stock exchange in India, except as provided under this Act, be administered by the Securities and Exchange Board by making regulations in this behalf;

(b) in any other case, be administered by the Central Government.

Explanation.—For the removal of doubts, it is hereby declared that all powers relating to all other matters relating to prospectus, return of allotment, redemption of preference shares and any other matter specifically provided in this Act, shall be exercised by the Central Government, the Tribunal or the Registrar, as the case may be.

(2) The Securities and Exchange Board shall, in respect of matters specified in sub-section (1) and the matters delegated to it under proviso to sub-section (1) of section 458, exercise the powers conferred upon it under sub-sections (1), (2A), (3) and (4) of section 11, sections 11A, 11B and 11D of the Securities and Exchange Board of India Act, 1992 (15 of 1992).

25. Document containing offer of securities for sale to be deemed prospectus.—(1) Where a company allots or agrees to allot any securities of the company with a view to all or any of those securities being offered for sale to the public, any document by which the offer for sale to the public is made shall, for all purposes, be deemed to be a prospectus issued by the company; and all enactments and rules of law as to the contents of prospectus and as to liability in respect of mis-statements, in and omissions from, prospectus, or otherwise relating to prospectus, shall apply with the modifications specified in sub-sections (3) and (4) and shall have effect accordingly, as if the securities had been offered to the public for subscription and as if persons accepting the offer in respect of any securities were subscribers for those securities, but without prejudice to the liability, if any, of the persons by whom the offer is made in respect of mis-statements contained in the document or otherwise in respect thereof.

(2) For the purposes of this Act, it shall, unless the contrary is proved, be evidence that an allotment of, or an agreement to allot, securities was made with a view to the securities being offered for sale to the public if it is shown—

(a) that an offer of the securities or of any of them for sale to the public was made within six months after the allotment or agreement to allot; or

(b) that at the date when the offer was made, the whole consideration to be received by the company in respect of the securities had not been received by it.

(3) Section 26 as applied by this section shall have effect as if—

(i) it required a prospectus to state in addition to the matters required by that section to be stated in a prospectus—

(a) the net amount of the consideration received or to be received by the company in respect of the securities to which the offer relates; and

(b) the time and place at which the contract where under the said securities have been or are to be allotted may be inspected;

(ii) the persons making the offer were persons named in a prospectus as directors of a company.

(4) Where a person making an offer to which this section relates is a company or a firm, it shall be sufficient if the document referred to in sub-section (1) is signed on behalf of the company or firm by two directors of the company or by not less than one-half of the partners in the firm, as the case may be.

26. Matters to be stated in prospectus.—(1) Every prospectus issued by or on behalf of a public company either with reference to its formation or subsequently, or by or on behalf of any person who is or has been engaged or interested in the formation of a public company, shall be dated and signed and shall, ¹[state such information and set out such reports on financial information as may be specified by the Securities and Exchange Board in consultation with the Central Government:

Provided that until the Securities and Exchange Board specifies the information and reports on financial information under this sub-section, the regulations made by the Securities and Exchange Board under the

1. Ins. by Act 1 of 2018, s. 8 (w.e.f. 7-5-2018).

Securities and Exchange Board of India Act, 1992 (15 of 1992), in respect of such financial information or reports on financial information shall apply];—

1*

*

*

*

*

(c) make a declaration about the compliance of the provisions of this Act and a statement to the effect that nothing in the prospectus is contrary to the provisions of this Act, the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the rules and regulations made thereunder; and

2*

*

*

*

*

(2) Nothing in sub-section (1) shall apply—

(a) to the issue to existing members or debenture-holders of a company, of a prospectus or form of application relating to shares in or debentures of the company, whether an applicant has a right to renounce the shares or not under sub-clause (ii) of clause (a) of sub-section (1) of section 62 in favour of any other person; or

(b) to the issue of a prospectus or form of application relating to shares or debentures which are, or are to be, in all respects uniform with shares or debentures previously issued and for the time being dealt in or quoted on a recognised stock exchange.

(3) Subject to sub-section (2), the provisions of sub-section (1) shall apply to a prospectus or a form of application, whether issued on or with reference to the formation of a company or subsequently.

Explanation.—The date indicated in the prospectus shall be deemed to be the date of its publication.

(4) No prospectus shall be issued by or on behalf of a company or in relation to an intended company unless on or before the date of its publication, there has been delivered to the Registrar for ²[filing], a copy thereof signed by every person who is named there in as a director or proposed director of the company or by his duly authorised attorney.

(5) A prospectus issued under sub-section (1) shall not include a statement purporting to be made by an expert unless the expert is a person who is not, and has not been, engaged or interested in the formation or promotion or management, of the company and has given his written consent to the issue of the prospectus and has not withdrawn such consent before the delivery of a copy of the prospectus to the Registrar for ¹[filing] and a statement to that effect shall be included in the prospectus.

(6) Every prospectus issued under sub-section (1) shall, on the face of it,—

(a) state that a copy has been delivered for ¹[filing] to the Registrar as required under sub-section (4); and

(b) specify any documents required by this section to be attached to the copy so delivered or refer to statements included in the prospectus which specify these documents.

3*

*

*

*

*

(8) No prospectus shall be valid if it is issued more than ninety days after the date on which a copy thereof is delivered to the Registrar under sub-section (4).

(9) If a prospectus is issued in contravention of the provisions of this section, the company shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to three lakh rupees and every person who is knowingly a party to the issue of such prospectus shall be punishable ^{4***} with fine which shall not be less than fifty thousand rupees but which may extend to ⁵[three lakh rupees].

1. Clauses (a), (b) and (d) omitted by Act 1 of 2018, s. 8 (w.e.f. 7-5-2018).

2. Subs. by Act 22 of 2019, s. 6, for “registration” (w.e.f. 15-8-2019).

3. Sub-section (7) omitted by s. 6, *ibid.* (w.e.f. 15-8-2019).

4. The words “with imprisonment for a term which may extend to three years or” omitted by Act 29 of 2020, s. 6 (w.e.f. 21-12-2020).

5. Subs. by s. 6, *ibid.*, for “three lakh rupees, or with both” (w.e.f. 21-12-2020).

27. Variation in terms of contract or objects in prospectus.—(1) A company shall not, at any time, vary the terms of a contract referred to in the prospectus or objects for which the prospectus was issued, except subject to the approval of, or except subject to an authority given by the company in general meeting by way of special resolution:

Provided that the details, as may be prescribed, of the notice in respect of such resolution to shareholders, shall also be published in the newspapers (one in English and one in vernacular language) in the city where the registered office of the company is situated indicating clearly the justification for such variation:

Provided further that such company shall not use any amount raised by it through prospectus for buying, trading or otherwise dealing in equity shares of any other listed company.

(2) The dissenting shareholders being those shareholders who have not agreed to the proposal to vary the terms of contracts or objects referred to in the prospectus, shall be given an exit offer by promoters or controlling shareholders at such exit price, and in such manner and conditions as may be specified by the Securities and Exchange Board by making regulations in this behalf.

28. Offer of sale of shares by certain members of company.—(1) Where certain members of a company propose, in consultation with the Board of Directors to offer, in accordance with the provisions of any law for the time being in force, whole or part of their holding of shares to the public, they may do so in accordance with such procedure as may be prescribed.

(2) Any document by which the offer of sale to the public is made shall, for all purposes, be deemed to be a prospectus issued by the company and all laws and rules made thereunder as to the contents of the prospectus and as to liability in respect of mis-statements in and omission from prospectus or otherwise relating to prospectus shall apply as if this is a prospectus issued by the company.

(3) The members, whether individuals or bodies corporate or both, whose shares are proposed to be offered to the public, shall collectively authorise the company, whose shares are offered for sale to the public, to take all actions in respect of offer of sale for and on their behalf and they shall reimburse the company all expenses incurred by it on this matter.

29. Public offer of securities to be in dematerialised form.—(1) Notwithstanding anything contained in any other provisions of this Act,—

(a) every company making public offer; and

(b) such other class or classes of ^{1***} companies as may be prescribed,

shall issue the securities only in dematerialised form by complying with the provisions of the Depositories Act, 1996 (22 of 1996) and the regulations made thereunder.

²[(1A) In case of such class or classes of unlisted companies as may be prescribed, the securities shall be held or transferred only in dematerialised form in the manner laid down in the Depositories Act, 1996 and the regulations made thereunder.]

(2) Any company, other than a company mentioned in sub-section (1), may convert its securities into dematerialised form or issue its securities in physical form in accordance with the provisions of this Act or in dematerialised form in accordance with the provisions of the Depositories Act, 1996 (22 of 1996) and the regulations made thereunder.

30. Advertisement of prospectus.—Where an advertisement of any prospectus of a company is published in any manner, it shall be necessary to specify therein the contents of its memorandum as regards the objects, the liability of members and the amount of share capital of the company, and the names of the signatories to the memorandum and the number of shares subscribed for by them, and its capital structure.

31. Shelf prospectus.—(1) Any class or classes of companies, as the Securities and Exchange Board may provide by regulations in this behalf, may file a shelf prospectus with the Registrar at the stage of the first offer of securities included therein which shall indicate a period not exceeding one year as the period of validity of such prospectus which shall commence from the date of opening of the first offer of securities under that prospectus, and in respect of a second or subsequent offer of such securities issued during the period of validity of that prospectus, no further prospectus is required.

(2) A company filing a shelf prospectus shall be required to file an information memorandum containing all material facts relating to new charges created, changes in the financial position of the

1. The word “public” omitted by Act 22 of 2019, s. 7 (w.e.f. 15-8-2019).

2. Ins. by s. 7, *ibid.* (w.e.f. 15-8-2019).

company as have occurred between the first offer of securities or the previous offer of securities and the succeeding offer of securities and such other changes as may be prescribed, with the Registrar within the prescribed time, prior to the issue of a second or subsequent offer of securities under the shelf prospectus:

Provided that where a company or any other person has received applications for the allotment of securities along with advance payments of subscription before the making of any such change, the company or other person shall intimate the changes to such applicants and if they express a desire to withdraw their application, the company or other person shall refund all the monies received as subscription within fifteen days thereof.

(3) Where an information memorandum is filed, every time an offer of securities is made under sub-section (2), such memorandum together with the shelf prospectus shall be deemed to be a prospectus.

Explanation.—For the purposes of this section, the expression “shelf prospectus” means a prospectus in respect of which the securities or class of securities included therein are issued for subscription in one or more issues over a certain period without the issue of a further prospectus.

32. Red herring prospectus.—(1) A company proposing to make an offer of securities may issue a red herring prospectus prior to the issue of a prospectus.

(2) A company proposing to issue a red herring prospectus under sub-section (1) shall file it with the Registrar at least three days prior to the opening of the subscription list and the offer.

(3) A red herring prospectus shall carry the same obligations as are applicable to a prospectus and any variation between the red herring prospectus and a prospectus shall be highlighted as variations in the prospectus.

(4) Upon the closing of the offer of securities under this section, the prospectus stating therein the total capital raised, whether by way of debt or share capital, and the closing price of the securities and any other details as are not included in the red herring prospectus shall be filed with the Registrar and the Securities and Exchange Board.

Explanation.—For the purposes of this section, the expression “red herring prospectus” means a prospectus which does not include complete particulars of the quantum or price of the securities included therein.

33. Issue of application forms for securities.—(1) No form of application for the purchase of any of the securities of a company shall be issued unless such form is accompanied by an abridged prospectus:

Provided that nothing in this sub-section shall apply if it is shown that the form of application was issued—

(a) in connection with a *bona fide* invitation to a person to enter into an underwriting agreement with respect to such securities; or

(b) in relation to securities which were not offered to the public.

(2) A copy of the prospectus shall, on a request being made by any person before the closing of the subscription list and the offer, be furnished to him.

(3) If a company makes any default in complying with the provisions of this section, it shall be liable to a penalty of fifty thousand rupees for each default.

34. Criminal liability for mis-statements in prospectus.—Where a prospectus, issued, circulated or distributed under this Chapter, includes any statement which is untrue or misleading in form or context in which it is included or where any inclusion or omission of any matter is likely to mislead, every person who authorises the issue of such prospectus shall be liable under section 447:

Provided that nothing in this section shall apply to a person if he proves that such statement or omission was immaterial or that he had reasonable grounds to believe, and did up to the time of issue of the prospectus believe, that the statement was true or the inclusion or omission was necessary.

35. Civil liability for mis-statements in prospectus.—(1) Where a person has subscribed for securities of a company acting on any statement included, or the inclusion or omission of any matter, in the prospectus

which is misleading and has sustained any loss or damage as a consequence thereof, the company and every person who—

- (a) is a director of the company at the time of the issue of the prospectus;
- (b) has authorised himself to be named and is named in the prospectus as a director of the company, or has agreed to become such director, either immediately or after an interval of time;
- (c) is a promoter of the company;
- (d) has authorised the issue of the prospectus; and
- (e) is an expert referred to in sub-section (5) of section 26,

shall, without prejudice to any punishment to which any person may be liable under section 36, be liable to pay compensation to every person who has sustained such loss or damage.

(2) No person shall be liable under sub-section (1), if he proves—

(a) that, having consented to become a director of the company, he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent; or

(b) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue, he forthwith gave a reasonable public notice that it was issued without his knowledge or consent.

¹[(c) that, as regards every misleading statement purported to be made by an expert or contained in what purports to be a copy of or an extract from a report or valuation of an expert, it was a correct and fair representation of the statement, or a correct copy of, or a correct and fair extract from, the report or valuation; and he had reasonable ground to believe and did up to the time of the issue of the prospectus believe, that the person making the statement was competent to make it and that the said person had given the consent required by sub-section (5) of section 26 to the issue of the prospectus and had not withdrawn that consent before ²[filing of a copy of the prospectus with the Registrar] or, to the defendant's knowledge, before allotment thereunder.]

(3) Notwithstanding anything contained in this section, where it is proved that a prospectus has been issued with intent to defraud the applicants for the securities of a company or any other person or for any fraudulent purpose, every person referred to in sub-section (1) shall be personally responsible, without any limitation of liability, for all or any of the losses or damages that may have been incurred by any person who subscribed to the securities on the basis of such prospectus.

36. Punishment for fraudulently inducing persons to invest money.—Any person who, either knowingly or recklessly makes any statement, promise or forecast which is false, deceptive or misleading, or deliberately conceals any material facts, to induce another person to enter into, or to offer to enter into,—

(a) any agreement for, or with a view to, acquiring, disposing of, subscribing for, or underwriting securities; or

(b) any agreement, the purpose or the pretended purpose of which is to secure a profit to any of the parties from the yield of securities or by reference to fluctuations in the value of securities; or

(c) any agreement for, or with a view to obtaining credit facilities from any bank or financial institution,

shall be liable for action under section 447.

37. Action by affected persons.—A suit may be filed or any other action may be taken under section 34 or section 35 or section 36 by any person, group of persons or any association of persons affected by any misleading statement or the inclusion or omission of any matter in the prospectus.

38. Punishment for personation for acquisition, etc., of securities.—(1) Any person who—

(a) makes or abets making of an application in a fictitious name to a company for acquiring, or subscribing for, its securities; or

1. Ins. by Act 1 of 2018, s. 9 (w.e.f. 9-2-2018).

2. Subs. by Act 22 of 2019, s. 8, for “delivery of a copy of the prospectus for registration” (w.e.f. 15-8-2019).

(b) makes or abets making of multiple applications to a company in different names or in different combinations of his name or surname for acquiring or subscribing for its securities; or

(c) otherwise induces directly or indirectly a company to allot, or register any transfer of, securities to him, or to any other person in a fictitious name,

shall be liable for action under section 447.

(2) The provisions of sub-section (1) shall be prominently reproduced in every prospectus issued by a company and in every form of application for securities.

(3) Where a person has been convicted under this section, the Court may also order disgorgement of gain, if any, made by, and seizure and disposal of the securities in possession of, such person.

(4) The amount received through disgorgement or disposal of securities under sub-section (3) shall be credited to the Investor Education and Protection Fund.

39. Allotment of securities by company.—(1) No allotment of any securities of a company offered to the public for subscription shall be made unless the amount stated in the prospectus as the minimum amount has been subscribed and the sums payable on application for the amount so stated have been paid to and received by the company by cheque or other instrument.

(2) The amount payable on application on every security shall not be less than five per cent. of the nominal amount of the security or such other percentage or amount, as may be specified by the Securities and Exchange Board by making regulations in this behalf.

(3) If the stated minimum amount has not been subscribed and the sum payable on application is not received within a period of thirty days from the date of issue of the prospectus, or such other period as may be specified by the Securities and Exchange Board, the amount received under sub-section (1) shall be returned within such time and manner as may be prescribed.

(4) Whenever a company having a share capital makes any allotment of securities, it shall file with the Registrar a return of allotment in such manner as may be prescribed.

(5) In case of any default under sub-section (3) or sub-section (4), the company and its officer who is in default shall be liable to a penalty, for each default, of one thousand rupees for each day during which such default continues or one lakh rupees, whichever is less.

40. Securities to be dealt with in stock exchanges.—(1) Every company making public offer shall, before making such offer, make an application to one or more recognised stock exchange or exchanges and obtain permission for the securities to be dealt with in such stock exchange or exchanges.

(2) Where a prospectus states that an application under sub-section (1) has been made, such prospectus shall also state the name or names of the stock exchange in which the securities shall be dealt with.

(3) All monies received on application from the public for subscription to the securities shall be kept in a separate bank account in a scheduled bank and shall not be utilised for any purpose other than—

(a) for adjustment against allotment of securities where the securities have been permitted to be dealt with in the stock exchange or stock exchanges specified in the prospectus; or

(b) for the repayment of monies within the time specified by the Securities and Exchange Board, received from applicants in pursuance of the prospectus, where the company is for any other reason unable to allot securities.

(4) Any condition purporting to require or bind any applicant for securities to waive compliance with any of the requirements of this section shall be void.

(5) If a default is made in complying with the provisions of this section, the company shall be punishable with a fine which shall not be less than five lakh rupees but which may extend to fifty lakh rupees and every

officer of the company who is in default shall be punishable ^{1***} or with fine which shall not be less than fifty thousand rupees but which may extend to ²[three lakh rupees].

(6) A company may pay commission to any person in connection with the subscription to its securities subject to such conditions as may be prescribed.

41. Global depository receipt.—A company may, after passing a special resolution in its general meeting, issue depository receipts in any foreign country in such manner, and subject to such conditions, as may be prescribed.

PART II.—*Private placement*

³[42. Issue of shares on private placement basis.]—(1) A company may, subject to the provisions of this section, make a private placement of securities.

(2) A private placement shall be made only to a select group of persons who have been identified by the Board (herein referred to as “identified persons”), whose number shall not exceed fifty or such higher number as may be prescribed [excluding the qualified institutional buyers and employees of the company being offered securities under a scheme of employees stock option in terms of provisions of clause (b) of sub-section (1) of section 62], in a financial year subject to such conditions as may be prescribed.

(3) A company making private placement shall issue private placement offer and application in such form and manner as may be prescribed to identified persons, whose names and addresses are recorded by the company in such manner as may be prescribed:

Provided that the private placement offer and application shall not carry any right of renunciation.

Explanation I.—“private placement” means any offer or invitation to subscribe or issue of securities to a select group of persons by a company (other than by way of public offer) through private placement offer-cum-application, which satisfies the conditions specified in this section.

Explanation II.—“qualified institutional buyer” means the qualified institutional buyer as defined in the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009, as amended from time to time, made under the Securities and Exchange Board of India Act, 1992, (15 of 1992).

Explanation III.—If a company, listed or unlisted, makes an offer to allot or invites subscription, or allots, or enters into an agreement to allot, securities to more than the prescribed number of persons, whether the payment for the securities has been received or not or whether the company intends to list its securities or not on any recognised stock exchange in or outside India, the same shall be deemed to be an offer to the public and shall accordingly be governed by the provisions of Part I of this Chapter.

(4) Every identified person willing to subscribe to the private placement issue shall apply in the private placement and application issued to such person alongwith subscription money paid either by cheque or demand draft or other banking channel and not by cash:

Provided that a company shall not utilise monies raised through private placement unless allotment is made and the return of allotment is filed with the Registrar in accordance with sub-section (8).

(5) No fresh offer or invitation under this section shall be made unless the allotments with respect to any offer or invitation made earlier have been completed or that offer or invitation has been withdrawn or abandoned by the company:

Provided that, subject to the maximum number of identified persons under sub-section (2), a company may, at any time, make more than one issue of securities to such class of identified persons as may be prescribed.

(6) A company making an offer or invitation under this section shall allot its securities within sixty days from the date of receipt of the application money for such securities and if the company is not able to allot the securities within that period, it shall repay the application money to the subscribers within fifteen days from the expiry of sixty days and if the company fails to repay the application money within the aforesaid

1. The words “with imprisonment for a term which may extend to one year or” omitted by Act 29 of 2020, s. 7 (w.e.f. 21-12-2020).

2. Subs. by s. 7, *ibid.*, for “three lakh rupees, or with both” (w.e.f. 21-12-2020).

3. Subs. by Act 1 of 2018, s. 10 (w.e.f. 7-8-2018).

period, it shall be liable to repay that money with interest at the rate of twelve per cent. per annum from the expiry of the sixtieth day:

Provided that monies received on application under this section shall be kept in a separate bank account in a scheduled bank and shall not be utilised for any purpose other than—

- (a) for adjustment against allotment of securities; or
- (b) for the repayment of monies where the company is unable to allot securities.

(7) No company issuing securities under this section shall release any public advertisements or utilise any media, marketing or distribution channels or agents to inform the public at large about such an issue.

(8) A company making any allotment of securities under this section, shall file with the Registrar a return of allotment within fifteen days from the date of the allotment in such manner as may be prescribed, including a complete list of all allottees, with their full names, addresses, number of securities allotted and such other relevant information as may be prescribed.

(9) If a company defaults in filing the return of allotment within the period prescribed under sub-section (8), the company, its promoters and directors shall be liable to a penalty for each default of one thousand rupees for each day during which such default continues but not exceeding twenty-five lakh rupees.

(10) Subject to sub-section (11), if a company makes an offer or accepts monies in contravention of this section, the company, its promoters and directors shall be liable for a penalty which may extend to the amount raised through the private placement or two crore rupees, whichever is lower, and the company shall also refund all monies with interest as specified in sub-section (6) to subscribers within a period of thirty days of the order imposing the penalty.

(11) Notwithstanding anything contained in sub-section (9) and sub-section (10), any private placement issue not made in compliance of the provisions of sub-section (2) shall be deemed to be a public offer and all the provisions of this Act and the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and the Securities and Exchange Board of India Act, 1992 (15 of 1992) shall be applicable.]

CHAPTER IV

SHARE CAPITAL AND DEBENTURES

43. Kinds of share capital.—The share capital of a company limited by shares shall be of two kinds, namely:—

(a) equity share capital—

(i) with voting rights; or

(ii) with differential rights as to dividend, voting or otherwise in accordance with such rules as may be prescribed; and

(b) preference share capital:

Provided that nothing contained in this Act shall affect the rights of the preference share holders who are entitled to participate in the proceeds of winding up before the commencement of this Act.

Explanation.—For the purposes of this section,—

(i) “equity share capital”, with reference to any company limited by shares, means all share capital which is not preference share capital;

(ii) “preference share capital”, with reference to any company limited by shares, means that part of the issued share capital of the company which carries or would carry a preferential right with respect to—

(a) payment of dividend, either as a fixed amount or an amount calculated at a fixed rate, which may either be free of or subject to income-tax; and

(b) repayment, in the case of a winding up or repayment of capital, of the amount of the share capital paid-up or deemed to have been paid-up, whether or not, there is a preferential right to the payment of any fixed premium or premium on any fixed scale, specified in the memorandum or articles of the company;

(iii) capital shall be deemed to be preference capital, notwithstanding that it is entitled to either or both of the following rights, namely:—

(a) that in respect of dividends, in addition to the preferential rights to the amounts specified in sub-clause (a) of clause (ii), it has a right to participate, whether fully or to a limited extent, with capital not entitled to the preferential right aforesaid;

(b) that in respect of capital, in addition to the preferential right to the repayment, on a winding up, of the amounts specified in sub-clause (b) of clause (ii), it has a right to participate, whether fully or to a limited extent, with capital not entitled to that preferential right in any surplus which may remain after the entire capital has been repaid.

44. Nature of shares or debentures.—The shares or debentures or other interest of any member in a company shall be movable property transferable in the manner provided by the articles of the company.

45. Numbering of shares.—Every share in a company having a share capital shall be distinguished by its distinctive number:

Provided that nothing in this section shall apply to a share held by a person whose name is entered as holder of beneficial interest in such share in the records of a depository.

46. Certificate of shares.—(1) A certificate, ¹[issued under the common seal, if any, of the company or signed by two directors or by a director and the Company Secretary, wherever the company has appointed a Company Secretary], specifying the shares held by any person, shall be *prima facie* evidence of the title of the person to such shares.

(2) A duplicate certificate of shares may be issued, if such certificate —

(a) is proved to have been lost or destroyed; or

(b) has been defaced, mutilated or torn and is surrendered to the company.

(3) Notwithstanding anything contained in the articles of a company, the manner of issue of a certificate of shares or the duplicate thereof, the form of such certificate, the particulars to be entered in the register of members and other matters shall be such as may be prescribed.

(4) Where a share is held in depository form, the record of the depository is the *prima facie* evidence of the interest of the beneficial owner.

(5) If a company with intent to defraud issues a duplicate certificate of shares, the company shall be punishable with fine which shall not be less than five times the face value of the shares involved in the issue of the duplicate certificate but which may extend to ten times the face value of such shares or rupees ten crores whichever is higher and every officer of the company who is in default shall be liable for action under section 447.

47. Voting rights.—(1) Subject to the ²[provisions of section 43, sub-section (2) of section 50 and sub-section (1) of section 188],—

(a) every member of a company limited by shares and holding equity share capital therein, shall have a right to vote on every resolution placed before the company; and

(b) his voting right on a poll shall be in proportion to his share in the paid-up equity share capital of the company.

(2) Every member of a company limited by shares and holding any preference share capital therein shall, in respect of such capital, have a right to vote only on resolutions placed before the company which directly affect the rights attached to his preference shares and, any resolution for the winding up of the company or for the repayment or reduction of its equity or preference share capital and his voting right on a poll shall be in proportion to his share in the paid-up preference share capital of the company:

1. Subs. by Act 21 of 2015, s. 7, for “issued under the common seal of the company” (w.e.f. 29-5-2015).

2. Subs. by Act 1 of 2018, s. 11, for “provisions of section 43 and sub-section (2) of section 50” (w.e.f. 9-2-2018).

Provided that the proportion of the voting rights of equity shareholders to the voting rights of the preference shareholders shall be in the same proportion as the paid-up capital in respect of the equity shares bears to the paid-up capital in respect of the preference shares:

Provided further that where the dividend in respect of a class of preference shares has not been paid for a period of two years or more, such class of preference shareholders shall have a right to vote on all the resolutions placed before the company.

48. Variations of shareholders' rights.—(1) Where a share capital of the company is divided into different classes of shares, the rights attached to the shares of any class may be varied with the consent in writing of the holders of not less than three-fourths of the issued shares of that class or by means of a special resolution passed at a separate meeting of the holders of the issued shares of that class,—

(a) if provision with respect to such variation is contained in the memorandum or articles of the company; or

(b) in the absence of any such provision in the memorandum or articles, if such variation is not prohibited by the terms of issue of the shares of that class:

Provided that if variation by one class of shareholders affects the rights of any other class of shareholders, the consent of three-fourths of such other class of shareholders shall also be obtained and the provisions of this section shall apply to such variation.

(2) Where the holders of not less than ten per cent. of the issued shares of a class did not consent to such variation or vote in favour of the special resolution for the variation, they may apply to the Tribunal to have the variation cancelled, and where any such application is made, the variation shall not have effect unless and until it is confirmed by the Tribunal:

Provided that an application under this section shall be made within twenty-one days after the date on which the consent was given or the resolution was passed, as the case maybe, and may be made on behalf of the shareholders entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.

(3) The decision of the Tribunal on any application under sub-section (2) shall be binding on the shareholders.

(4) The company shall, within thirty days of the date of the order of the Tribunal, file a copy thereof with the Registrar.

1*

*

*

*

*

49. Calls on shares of same class to be made on uniform basis.—Where any calls for further share capital are made on the shares of a class, such calls shall be made on a uniform basis on all shares falling under that class.

Explanation.—For the purposes of this section, shares of the same nominal value on which different amounts have been paid-up shall not be deemed to fall under the same class.

50. Company to accept unpaid share capital, although not called up.—(1) A company may, if so authorised by its articles, accept from any member, the whole or a part of the amount remaining unpaid on any shares held by him, even if no part of that amount has been called up.

(2) A member of the company limited by shares shall not be entitled to any voting rights in respect of the amount paid by him under sub-section (1) until that amount has been called up.

51. Payment of dividend in proportion to amount paid-up.—A company may, if so authorised by its articles, pay dividends in proportion to the amount paid-up on each share.

1. Sub-section (5) omitted by Act 29 of 2020, s. 8 (w.e.f. 21-12-2020).

52. Application of premiums received on issue of shares.—(1) Where a company issues shares at a premium, whether for cash or otherwise, a sum equal to the aggregate amount of the premium received on those shares shall be transferred to a “securities premium account” and the provisions of this Act relating to reduction of share capital of a company shall, except as provided in this section, apply as if the securities premium account were the paid-up share capital of the company.

(2) Notwithstanding anything contained in sub-section (1), the securities premium account may be applied by the company—

- (a) towards the issue of unissued shares of the company to the members of the company as fully paid bonus shares;
- (b) in writing off the preliminary expenses of the company;
- (c) in writing off the expenses of, or the commission paid or discount allowed on, any issue of shares or debentures of the company;
- (d) in providing for the premium payable on the redemption of any redeemable preference shares or of any debentures of the company; or
- (e) for the purchase of its own shares or other securities under section 68.

(3) The securities premium account may, notwithstanding anything contained in sub-sections (1) and (2), be applied by such class of companies, as may be prescribed and whose financial statement comply with the accounting standards prescribed for such class of companies under section 133,—

- (a) in paying up unissued equity shares of the company to be issued to members of the company as fully paid bonus shares; or
- (b) in writing off the expenses of or the commission paid or discount allowed on any issue of equity shares of the company; or
- (c) for the purchase of its own shares or other securities under section 68.

53. Prohibition on issue of shares at discount.—(1) Except as provided in section 54, a company shall not issue shares at a discount.

(2) Any share issued by a company at a ¹[discount] shall be void.

²[(2A) Notwithstanding anything contained in sub-sections (1) and (2), a company may issue shares at a discount to its creditors when its debt is converted into shares in pursuance of any statutory resolution plan or debt restructuring scheme in accordance with any guidelines or directions or regulations specified by the Reserve Bank of India under the Reserve Bank of India Act, 1934 (2 of 1934) or the Banking (Regulation) Act, 1949 (10 of 1949).]

³[(3) Where any company fails to comply with the provisions of this section, such company and every officer who is in default shall be liable to a penalty which may extend to an amount equal to the amount raised through the issue of shares at a discount of five lakh rupees, whichever is less, and the company shall also be liable to refund all monies received with interest at the rate of twelve per cent. per annum from the date of issue of such shares to the persons to whom such shares have been issued.]

54. Issue of sweat equity shares.—(1) Notwithstanding anything contained in section 53, a company may issue sweat equity shares of a class of shares already issued, if the following conditions are fulfilled, namely:—

- (a) the issue is authorised by a special resolution passed by the company;

1. Subs. by Act 1 of 2018, s. 12, for “discounted price” (w.e.f. 9-2-2018).

2. Ins. by s. 12, *ibid.* (w.e.f. 9-2-2018).

3. Subs. by Act 22 of 2019, s. 9, for sub-section (3) (w.e.f. 2-11-2018).

(b) the resolution specifies the number of shares, the current market price, consideration, if any, and the class or classes of directors or employees to whom such equity shares are to be issued;

1* * * *

(d) where the equity shares of the company are listed on a recognised stock exchange, the sweat equity shares are issued in accordance with the regulations made by the Securities and Exchange Board in this behalf and if they are not so listed, the sweat equity shares are issued in accordance with such rules as may be prescribed.

(2) The rights, limitations, restrictions and provisions as are for the time being applicable to equity shares shall be applicable to the sweat equity shares issued under this section and the holders of such shares shall rank *pari passu* with other equity shareholders.

55. Issue and redemption of preference shares.—(1) No company limited by shares shall, after the commencement of this Act, issue any preference shares which are irredeemable.

(2) A company limited by shares may, if so authorised by its articles, issue preference shares which are liable to be redeemed within a period not exceeding twenty years from the date of their issue subject to such conditions as may be prescribed:

Provided that a company may issue preference shares for a period exceeding twenty years for infrastructure projects, subject to the redemption of such percentage of shares as may be prescribed on an annual basis at the option of such preferential shareholders:

Provided further that—

(a) no such shares shall be redeemed except out of the profits of the company which would otherwise be available for dividend or out of the proceeds of a fresh issue of shares made for the purposes of such redemption;

(b) no such shares shall be redeemed unless they are fully paid;

(c) where such shares are proposed to be redeemed out of the profits of the company, there shall, out of such profits, be transferred, a sum equal to the nominal amount of the shares to be redeemed, to a reserve, to be called the Capital Redemption Reserve Account, and the provisions of this Act relating to reduction of share capital of a company shall, except as provided in this section, apply as if the Capital Redemption Reserve Account were paid-up share capital of the company; and

(d) (i) in case of such class of companies, as may be prescribed and whose financial statement comply with the accounting standards prescribed for such class of companies under section 133, the premium, if any, payable on redemption shall be provided for out of the profits of the company, before the shares are redeemed:

Provided also that premium, if any, payable on redemption of any preference shares issued on or before the commencement of this Act by any such company shall be provided for out of the profits of the company or out of the company's securities premium account, before such shares are redeemed.

(ii) in a case not falling under sub-clause (i) above, the premium, if any, payable on redemption shall be provided for out of the profits of the company or out of the company's securities premium account, before such shares are redeemed.

(3) Where a company is not in a position to redeem any preference shares or to pay dividend, if any, on such shares in accordance with the terms of issue (such shares hereinafter referred to as unredeemed preference shares), it may, with the consent of the holders of three-fourths in value of such preference shares and with the approval of the Tribunal on a petition made by it in this behalf, issue further redeemable preference shares equal to the amount due, including the dividend thereon, in respect of the unredeemed preference shares, and on the issue of such further redeemable preference shares, the unredeemed preference shares shall be deemed to have been redeemed:

1. Clause (c) omitted by Act 1 of 2018, s. 13 (w.e.f. 7-5-2018).

Provided that the Tribunal shall, while giving approval under this sub-section, order the redemption forthwith of preference shares held by such persons who have not consented to the issue of further redeemable preference shares.

Explanation.—For the removal of doubts, it is hereby declared that the issue of further redeemable preference shares or the redemption of preference shares under this section shall not be deemed to be an increase or, as the case may be, a reduction, in the share capital of the company.

(4) The capital redemption reserve account may, notwithstanding anything in this section, be applied by the company, in paying up unissued shares of the company to be issued to members of the company as fully paid bonus shares.

Explanation.—For the purposes of sub-section (2), the term “infrastructure projects” means the infrastructure projects specified in Schedule VI.

56. Transfer and transmission of securities.—(1) A company shall not register a transfer of securities of the company, or the interest of a member in the company in the case of a company having no share capital, other than the transfer between persons both of whose names are entered as holders of beneficial interest in the records of a depository, unless a proper instrument of transfer, in such form as may be prescribed, duly stamped, dated and executed by or on behalf of the transferor and the transferee and specifying the name, address and occupation, if any, of the transferee has been delivered to the company by the transferor or the transferee within a period of sixty days from the date of execution, along with the certificate relating to the securities, or if no such certificate is in existence, along with the letter of allotment of securities:

Provided that where the instrument of transfer has been lost or the instrument of transfer has not been delivered within the prescribed period, the company may register the transfer on such terms as to indemnity as the Board may think fit.

(2) Nothing in sub-section (1) shall prejudice the power of the company to register, on receipt of an intimation of transmission of any right to securities by operation of law from any person to whom such right has been transmitted.

(3) Where an application is made by the transferor alone and relates to partly paid shares, the transfer shall not be registered, unless the company gives the notice of the application, in such manner as may be prescribed, to the transferee and the transferee gives no objection to the transfer within two weeks from the receipt of notice.

(4) Every company shall, unless prohibited by any provision of law or any order of Court, Tribunal or other authority, deliver the certificates of all securities allotted, transferred or transmitted—

(a) within a period of two months from the date of incorporation, in the case of subscribers to the memorandum;

(b) within a period of two months from the date of allotment, in the case of any allotment of any of its shares;

(c) within a period of one month from the date of receipt by the company of the instrument of transfer under sub-section (1) or, as the case may be, of the intimation of transmission under sub-section (2), in the case of a transfer or transmission of securities;

(d) within a period of six months from the date of allotment in the case of any allotment of debenture:

Provided that where the securities are dealt with in a depository, the company shall intimate the details of allotment of securities to depository immediately on allotment of such securities.

(5) The transfer of any security or other interest of a deceased person in a company made by his legal representative shall, even if the legal representative is not a holder thereof, be valid as if he had been the holder at the time of the execution of the instrument of transfer.

¹[(6) Where any default is made in complying with the provisions of sub-sections (1) to (5), the company and every officer of the company who is in default shall be liable to a penalty of fifty thousand rupees.]

(7) Without prejudice to any liability under the Depositories Act, 1996 (22 of 1996), where any depository or depository participant, with an intention to defraud a person, has transferred shares, it shall be liable under section 447.

57. Punishment for personation of shareholder.—If any person deceitfully personates as an owner of any security or interest in a company, or of any share warrant or coupon issued in pursuance of this Act, and thereby obtains or attempts to obtain any such security or interest or any such share warrant or coupon, or receives or attempts to receive any money due to any such owner, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

58. Refusal of registration and appeal against refusal.—(1) If a private company limited by shares refuses, whether in pursuance of any power of the company under its articles or otherwise, to register the transfer of, or the transmission by operation of law of the right to, any securities or interest of a member in the company, it shall within a period of thirty days from the date on which the instrument of transfer, or the intimation of such transmission, as the case may be, was delivered to the company, send notice of the refusal to the transfer or and the transferee or to the person giving intimation of such transmission, as the case may be, giving reasons for such refusal.

(2) Without prejudice to sub-section (1), the securities or other interest of any member in a public company shall be freely transferable:

Provided that any contract or arrangement between two or more persons in respect of transfer of securities shall be enforceable as a contract.

(3) The transferee may appeal to the Tribunal against the refusal within a period of thirty days from the date of receipt of the notice or in case no notice has been sent by the company, within a period of sixty days from the date on which the instrument of transfer or the intimation of transmission, as the case may be, was delivered to the company.

(4) If a public company without sufficient cause refuses to register the transfer of securities within a period of thirty days from the date on which the instrument of transfer or the intimation of transmission, as the case may be, is delivered to the company, the transferee may, within a period of sixty days of such refusal or where no intimation has been received from the company, within ninety days of the delivery of the instrument of transfer or intimation of transmission, appeal to the Tribunal.

(5) The Tribunal, while dealing with an appeal made under sub-section (3) or sub-section (4), may, after hearing the parties, either dismiss the appeal, or by order—

(a) direct that the transfer or transmission shall be registered by the company and the company shall comply with such order within a period of ten days of the receipt of the order; or

(b) direct rectification of the register and also direct the company to pay damages, if any, sustained by any party aggrieved.

(6) If a person contravenes the order of the Tribunal under this section, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

59. Rectification of register of members.—(1) If the name of any person is, without sufficient cause, entered in the register of members of a company, or after having been entered in the register, is, without sufficient cause, omitted there from, or if a default is made, or unnecessary delay takes place in entering in the register, the fact of any person having become or ceased to be a member, the person aggrieved, or any member of the company, or the company may appeal in such form as may be prescribed, to the Tribunal,

1. Subs. by Act 29 of 2020, s. 9, for sub-section (6) (w.e.f. 21-12-2020).

or to a competent court outside India, specified by the Central Government by notification, in respect of foreign members or debenture holders residing outside India, for rectification of the register.

(2) The Tribunal may, after hearing the parties to the appeal under sub-section (1) by order, either dismiss the appeal or direct that the transfer or transmission shall be registered by the company within a period of ten days of the receipt of the order or direct rectification of the records of the depository or the register and in the latter case, direct the company to pay damages, if any, sustained by the party aggrieved.

(3) The provisions of this section shall not restrict the right of a holder of securities, to transfer such securities and any person acquiring such securities shall be entitled to voting rights unless the voting rights have been suspended by an order of the Tribunal.

(4) Where the transfer of securities is in contravention of any of the provisions of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Securities and Exchange Board of India Act, 1992 (15 of 1992) or this Act or any other law for the time being in force, the Tribunal may, on an application made by the depository, company, depository participant, the holder of the securities or the Securities and Exchange Board, direct any company or a depository to set right the contravention and rectify its register or records concerned.

1*

*

*

*

*

60. Publication of authorised, subscribed and paid-up capital.—(1) Where any notice, advertisement or other official publication, or any business letter, billhead or letter paper of a company contains a statement of the amount of the authorised capital of the company, such notice, advertisement or other official publication, or such letter, billhead or letter paper shall also contain a statement, in an equally prominent position and in equally conspicuous characters, of the amount of the capital which has been subscribed and the amount paid-up.

(2) If any default is made in complying with the requirements of sub-section (1), the company shall be liable to pay a penalty of ten thousand rupees and every officer of the company who is in default shall be liable to pay a penalty of five thousand rupees, for each default.

61. Power of limited company to alter its share capital.—(1) A limited company having a share capital may, if so authorised by its articles, alter its memorandum in its general meeting to—

(a) increase its authorised share capital by such amount as it thinks expedient;

(b) consolidate and divide all or any of its share capital into shares of a larger amount than its existing shares;

Provided that no consolidation and division which results in changes in the voting percentage of shareholders shall take effect unless it is approved by the Tribunal on an application made in the prescribed manner;

(c) convert all or any of its fully paid-up shares into stock, and reconvert that stock into fully paid-up shares of any denomination;

(d) sub-divide its shares, or any of them, into shares of smaller amount than is fixed by the memorandum, so, however, that in the sub-division the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived;

(e) cancel shares which, at the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

(2) The cancellation of shares under sub-section (1) shall not be deemed to be a reduction of share capital.

62. Further issue of share capital.—(1) Where at any time, a company having a share capital proposes to increase its subscribed capital by the issue of further shares, such shares shall be offered—

1. Sub-section (5) omitted by Act 29 of 2020, s. 10 (w.e.f. 21-12-2020).

(a) to persons who, at the date of the offer, are holders of equity shares of the company in proportion, as nearly as circumstances admit, to the paid-up share capital on those shares by sending a letter of offer subject to the following conditions, namely:—

(i) the offer shall be made by notice specifying the number of shares offered and limiting a time not being less than fifteen days ¹[or such lesser number of days as may be prescribed] and not exceeding thirty days from the date of the offer within which the offer, if not accepted, shall be deemed to have been declined;

(ii) unless the articles of the company otherwise provide, the offer aforesaid shall be deemed to include a right exercisable by the person concerned to renounce the shares offered to him or any of them in favour of any other person; and the notice referred to in clause (i) shall contain a statement of this right;

(iii) after the expiry of the time specified in the notice aforesaid, or on receipt of earlier intimation from the person to whom such notice is given that he declines to accept the shares offered, the Board of Directors may dispose of them in such manner which is not disadvantageous to the share holders and the company;

(b) to employees under a scheme of employees' stock option, subject to special resolution passed by company and subject to such conditions as may be prescribed; or

(c) to any persons, if it is authorised by a special resolution, whether or not those persons include the persons referred to in clause (a) or clause (b), either for cash or for a consideration other than cash, if the price of such shares is determined by the valuation report ²[of a registered valuer, subject to the compliance with the applicable provisions of Chapter III and any other conditions as may be prescribed].

³[(2) The notice referred to in sub-clause (i) of clause (a) of sub-section (1) shall be dispatched through registered post or speed post or through electronic mode or courier or any other mode having proof of delivery to all the existing shareholders at least three days before the opening of the issue.]

(3) Nothing in this section shall apply to the increase of the subscribed capital of a company caused by the exercise of an option as a term attached to the debentures issued or loan raised by the company to convert such debentures or loans into shares in the company:

Provided that the terms of issue of such debentures or loan containing such an option have been approved before the issue of such debentures or the raising of loan by a special resolution passed by the company in general meeting.

(4) Notwithstanding anything contained in sub-section (3), where any debentures have been issued, or loan has been obtained from any Government by a company, and if that Government considers it necessary in the public interest so to do, it may, by order, direct that such debentures or loans or any part thereof shall be converted into shares in the company on such terms and conditions as appear to the Government to be reasonable in the circumstances of the case even if terms of the issue of such debentures or the raising of such loans do not include a term for providing for an option for such conversion:

Provided that where the terms and conditions of such conversion are not acceptable to the company, it may, within sixty days from the date of communication of such order, appeal to the Tribunal which shall after hearing the company and the Government pass such order as it deems fit.

(5) In determining the terms and conditions of conversion under sub-section (4), the Government shall have due regard to the financial position of the company, the terms of issue of debentures or loans, as the case may be, the rate of interest payable on such debentures or loans and such other matters as it may consider necessary.

(6) Where the Government has, by an order made under sub-section (4), directed that any debenture or loan or any part thereof shall be converted into shares in a company and where no appeal has been preferred to the Tribunal under sub-section (4) or where such appeal has been dismissed, the memorandum of such

1. Ins. by Act 29 of 2020, s. 11 (w.e.f. 22-1-2021).

2. Subs. by Act 1 of 2018, s. 14, for "of a registered valuer subject to such conditions as may be prescribed" (w.e.f. 9-2-2018).

3. Subs. by s. 14, *ibid.*, for sub-section (2) (w.e.f. 9-2-2018).

company shall, where such order has the effect of increasing the authorised share capital of the company, stand altered and the authorised share capital of such company shall stand increased by an amount equal to the amount of the value of shares which such debentures or loans or part thereof has been converted into.

63. Issue of bonus shares.—(1) A company may issue fully paid-up bonus shares to its members, in any manner whatsoever, out of—

- (i) its free reserves;
- (ii) the securities premium account; or
- (iii) the capital redemption reserve account:

Provided that no issue of bonus shares shall be made by capitalising reserves created by the revaluation of assets.

(2) No company shall capitalise its profits or reserves for the purpose of issuing fully paid-up bonus shares under sub-section (1), unless—

- (a) it is authorised by its articles;
- (b) it has, on the recommendation of the Board, been authorised in the general meeting of the company;
- (c) it has not defaulted in payment of interest or principal in respect of fixed deposits or debt securities issued by it;
- (d) it has not defaulted in respect of the payment of statutory dues of the employees, such as, contribution to provident fund, gratuity and bonus;
- (e) the partly paid-up shares, if any outstanding on the date of allotment, are made fully paid-up;
- (f) it complies with such conditions as may be prescribed.

(3) The bonus shares shall not be issued in lieu of dividend.

64. Notice to be given to Registrar for alteration of share capital.—(1) Where—

- (a) a company alters its share capital in any manner specified in sub-section (1) of section 61;
- (b) an order made by the Government under sub-section (4) read with sub-section (6) of section 62 has the effect of increasing authorised capital of a company; or
- (c) a company redeems any redeemable preference shares,

the company shall file a notice in the prescribed form with the Registrar within a period of thirty days of such alteration or increase or redemption, as the case may be, along with an altered memorandum.

¹[(2) where any company fails to comply with the provisions of sub-section (1), such company rupees and every officer who is in default shall be liable to a penalty of ²[five hundred rupees] for each day during which such default continues, ³[subject to a maximum of five lakh rupees in case of a company and one lakh rupees in case of an officer who is in default].]

65. Unlimited company to provide for reserve share capital on conversion into limited company.—An unlimited company having a share capital may, by a resolution for registration as a limited company under this Act, do either or both of the following things, namely—

- (a) increase the nominal amount of its share capital by increasing the nominal amount of each of its shares, subject to the condition that no part of the increased capital shall be capable of being called up except in the event and for the purposes of the company being wound up;
- (b) provide that a specified portion of its uncalled share capital shall not be capable of being called up except in the event and for the purposes of the company being wound up.

1. Subs. by Act 22 of 2019, s. 10, for sub-section (2) (w.e.f. 2-11-2018).

2. Subs. by Act 29 of 2020, s. 12, for “one thousand rupees” (w.e.f. 21-12-2020).

3. Subs. by s. 12, *ibid.*, for “or five lakh rupees whichever is less” (w.e.f. 21-12-2020).

66. Reduction of share capital.—(1) Subject to confirmation by the Tribunal on an application by the company, a company limited by shares or limited by guarantee and having a share capital may, by a special resolution, reduce the share capital in any manner and in particular, may—

(a) extinguish or reduce the liability on any of its shares in respect of the share capital not paid-up; or

(b) either with or without extinguishing or reducing liability on any of its shares,—

(i) cancel any paid-up share capital which is lost or is unrepresented by available assets; or

(ii) pay off any paid-up share capital which is in excess of the wants of the company,

alter its memorandum by reducing the amount of its share capital and of its shares accordingly:

Provided that no such reduction shall be made if the company is in arrears in the repayment of any deposits accepted by it, either before or after the commencement of this Act, or the interest payable thereon.

(2) The Tribunal shall give notice of every application made to it under sub-section (1) to the Central Government, Registrar and to the Securities and Exchange Board, in the case of listed companies, and the creditors of the company and shall take into consideration the representations, if any, made to it by that Government, Registrar, the Securities and Exchange Board and the creditors within a period of three months from the date of receipt of the notice:

Provided that where no representation has been received from the Central Government, Registrar, the Securities and Exchange Board or the creditors within the said period, it shall be presumed that they have no objection to the reduction.

(3) The Tribunal may, if it is satisfied that the debt or claim of every creditor of the company has been discharged or determined or has been secured or his consent is obtained, make an order confirming the reduction of share capital on such terms and conditions as it deems fit:

Provided that no application for reduction of share capital shall be sanctioned by the Tribunal unless the accounting treatment, proposed by the company for such reduction is in conformity with the accounting standards specified in section 133 or any other provision of this Act and a certificate to that effect by the company's auditor has been filed with the Tribunal.

(4) The order of confirmation of the reduction of share capital by the Tribunal under sub-section (3) shall be published by the company in such manner as the Tribunal may direct.

(5) The company shall deliver a certified copy of the order of the Tribunal under sub-section (3) and of a minute approved by the Tribunal showing—

(a) the amount of share capital;

(b) the number of shares into which it is to be divided;

(c) the amount of each share; and

(d) the amount, if any, at the date of registration deemed to be paid-up on each share,

to the Registrar within thirty days of the receipt of the copy of the order, who shall register the same and issue a certificate to that effect.

(6) Nothing in this section shall apply to buy-back of its own securities by a company under section 68.

(7) A member of the company, past or present, shall not be liable to any call or contribution in respect of any share held by him exceeding the amount of difference, if any, between the amount paid on the share, or reduced amount, if any, which is to be deemed to have been paid thereon, as the case may be, and the amount of the share as fixed by the order of reduction.

(8) Where the name of any creditor entitled to object to the reduction of share capital under this section is, by reason of his ignorance of the proceedings for reduction or of their nature and effect with respect to his debt or claim, not entered on the list of creditors, and after such reduction, the company ¹[commits a

1. Subs. by Act 31 of 2016, s. 255 and the Eleventh Schedule, for “is unable, within the meaning of sub-section (2) of section 271, to pay the amount of his debt or claim,” (w.e.f. 15-11-2016).

default, within the meaning of section 6 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), in respect of the amount of his debt or claim],—

(a) every person, who was a member of the company on the date of the registration of the order for reduction by the Registrar, shall be liable to contribute to the payment of that debt or claim, an amount not exceeding the amount which he would have been liable to contribute if the company had commenced winding up on the day immediately before the said date; and

(b) if the company is wound up, the Tribunal may, on the application of any such creditor and proof of his ignorance as aforesaid, if it thinks fit, settle a list of persons so liable to contribute, and make and enforce calls and orders on the contributories settled on the list, as if they were ordinary contributories in a winding up.

(9) Nothing in sub-section (8) shall affect the rights of the contributories among themselves.

(10) If any officer of the company—

- (a) knowingly conceals the name of any creditor entitled to object to the reduction;
- (b) knowingly misrepresents the nature or amount of the debt or claim of any creditor; or
- (c) abets or is privy to any such concealment or misrepresentation as aforesaid,

he shall be liable under section 447.

1*

*

*

*

.

67. Restriction on purchase by company or giving of loans by it for purchase of its shares.—(1)

No company limited by shares or by guarantee and having a share capital shall have power to buy its own shares unless the consequent reduction of share capital is effected under the provisions of this Act.

(2) No public company shall give, whether directly or indirectly and whether by means of a loan, guarantee, the provision of security or otherwise, any financial assistance for the purpose of, or in connection with, a purchase or subscription made or to be made, by any person of or for any shares in the company or in its holding company.

(3) Nothing in sub-section (2) shall apply to—

- (a) the lending of money by a banking company in the ordinary course of its business;
- (b) the provision by a company of money in accordance with any scheme approved by company through special resolution and in accordance with such requirements as may be prescribed, for the purchase of, or subscription for, fully paid-up shares in the company or its holding company, if the purchase of, or the subscription for, the shares held by trustees for the benefit of the employees or such shares held by the employee of the company;
- (c) the giving of loans by a company to persons in the employment of the company other than its directors or key managerial personnel, for an amount not exceeding their salary or wages for a period of six months with a view to enabling them to purchase or subscribe for fully paid-up shares in the company or its holding company to be held by them by way of beneficial ownership:

Provided that disclosures in respect of voting rights not exercised directly by the employees in respect of shares to which the scheme relates shall be made in the Board's report in such manner as may be prescribed.

(4) Nothing in this section shall affect the right of a company to redeem any preference shares issued by it under this Act or under any previous company law.

(5) If a company contravenes the provisions of this section, it shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years and with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees.

1. Sub-section (11) omitted by Act 29 of 2020, s. 13 (w.e.f. 21-12-2020).

68. Power of company to purchase its own securities.—(1) Notwithstanding anything contained in this Act, but subject to the provisions of sub-section (2), a company may purchase its own shares or other specified securities (hereinafter referred to as buy-back) out of—

- (a) its free reserves;
- (b) the securities premium account; or
- (c) the proceeds of the issue of any shares or other specified securities:

Provided that no buy-back of any kind of shares or other specified securities shall be made out of the proceeds of an earlier issue of the same kind of shares or same kind of other specified securities.

(2) No company shall purchase its own shares or other specified securities under sub-section (1), unless—

- (a) the buy-back is authorised by its articles;
- (b) a special resolution has been passed at a general meeting of the company authorising the buy-back:

Provided that nothing contained in this clause shall apply to a case where—

- (i) the buy-back is, ten per cent. or less of the total paid-up equity capital and free reserves of the company; and
- (ii) such buy-back has been authorised by the Board by means of a resolution passed at its meeting;
- (c) the buy-back is twenty-five per cent. or less of the aggregate of paid-up capital and free reserves of the company:

Provided that in respect of the buy-back of equity shares in any financial year, the reference to twenty-five per cent. in this clause shall be construed with respect to its total paid-up equity capital in that financial year;

- (d) the ratio of the aggregate of secured and unsecured debts owed by the company after buy-back is not more than twice the paid-up capital and its free reserves:

Provided that the Central Government may, by order, notify a higher ratio of the debt to capital and free reserves for a class or classes of companies;

- (e) all the shares or other specified securities for buy-back are fully paid-up;
- (f) the buy-back of the shares or other specified securities listed on any recognized stock exchange is in accordance with the regulations made by the Securities and Exchange Board in this behalf; and
- (g) the buy-back in respect of shares or other specified securities other than those specified in clause (f) is in accordance with such rules as may be prescribed:

Provided that no offer of buy-back under this sub-section shall be made within a period of one year reckoned from the date of the closure of the preceding offer of buy-back, if any.

(3) The notice of the meeting at which the special resolution is proposed to be passed under clause (b) of sub-section (2) shall be accompanied by an explanatory statement stating—

- (a) a full and complete disclosure of all material facts;
- (b) the necessity for the buy-back;
- (c) the class of shares or securities intended to be purchased under the buy-back;
- (d) the amount to be invested under the buy-back; and
- (e) the time-limit for completion of buy-back.

(4) Every buy-back shall be completed within a period of one year from the date of passing of the special resolution, or as the case may be, the resolution passed by the Board under clause (b) of sub-section (2).

(5) The buy-back under sub-section (1) may be—

(a) from the existing shareholders or security holders on a proportionate basis;

(b) from the open market;

(c) by purchasing the securities issued to employees of the company pursuant to a scheme of stock option or sweat equity.

(6) Where a company proposes to buy-back its own shares or other specified securities under this section in pursuance of a special resolution under clause (b) of sub-section (2) or a resolution under item (ii) of the proviso thereto, it shall, before making such buy-back, file with the Registrar and the Securities and Exchange Board, a declaration of solvency signed by atleast two directors of the company, one of whom shall be the managing director, if any, in such form as may be prescribed and verified by an affidavit to the effect that the Board of Directors of the company has made a full inquiry into the affairs of the company as a result of which they have formed an opinion that it is capable of meeting its liabilities and will not be rendered insolvent within a period of one year from the date of declaration adopted by the Board:

Provided that no declaration of solvency shall be filed with the Securities and Exchange Board by a company whose shares are not listed on any recognised stock exchange.

(7) Where a company buys back its own shares or other specified securities, it shall extinguish and physically destroy the shares or securities so bought back within seven days of the last date of completion of buy-back.

(8) Where a company completes a buy-back of its shares or other specified securities under this section, it shall not make a further issue of the same kind of shares or other securities including allotment of new shares under clause (a) of sub-section (1) of section 62 or other specified securities within a period of six months except by way of a bonus issue or in the discharge of subsisting obligations such as conversion of warrants, stock option schemes, sweat equity or conversion of preference shares or debentures into equity shares.

(9) Where a company buys back its shares or other specified securities under this section, it shall maintain a register of the shares or securities so bought, the consideration paid for the shares or securities bought back, the date of cancellation of shares or securities, the date of extinguishing and physically destroying the shares or securities and such other particulars as may be prescribed.

(10) A company shall, after the completion of the buy-back under this section, file with the Registrar and the Securities and Exchange Board a return containing such particulars relating to the buy-back within thirty days of such completion, as may be prescribed:

Provided that no return shall be filed with the Securities and Exchange Board by a company whose shares are not listed on any recognised stock exchange.

(11) If a company makes any default in complying with the provisions of this section or any regulation made by the Securities and Exchange Board, for the purposes of clause (f) of sub-section (2), the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees and every officer of the company who is in default shall be punishable ^{1***} with fine which shall not be less than one lakh rupees but which may extend to ²[three lakh rupees].

Explanation I.—For the purposes of this section and section 70, “specified securities” includes employees’ stock option or other securities as may be notified by the Central Government from time to time.

Explanation II.—For the purposes of this section, “free reserves” includes securities premium account.

69. Transfer of certain sums to capital redemption reserve account.—(1) Where a company purchases its own shares out of free reserves or securities premium account, a sum equal to the nominal

1. The words “with imprisonment for a term which may extend to three years or” omitted by Act 29 of 2020, s. 14 (w.e.f. 21-12-2020).

2. Subs. by s. 14, *ibid.*, for “three lakh rupees, or with both” (w.e.f. 21-12-2020).

value of the shares so purchased shall be transferred to the capital redemption reserve account and details of such transfer shall be disclosed in the balance sheet.

(2) The capital redemption reserve account may be applied by the company, in paying up unissued shares of the company to be issued to members of the company as fully paid bonus shares.

70. Prohibition for buy-back in certain circumstances.—(1) No company shall directly or indirectly purchase its own shares or other specified securities—

(a) through any subsidiary company including its own subsidiary companies;

(b) through any investment company or group of investment companies; or

(c) if a default, is made by the company, in the repayment of deposits accepted either before or after the commencement of this Act, interest payment thereon, redemption of debentures or preference shares or payment of dividend to any shareholder, or re payment of any term loan or interest payable thereon to any financial institution or banking company:

Provided that the buy-back is not prohibited, if the default is remedied and a period of three years has lapsed after such default ceased to subsist.

(2) No company shall, directly or indirectly, purchase its own shares or other specified securities in case such company has not complied with the provisions of sections 92, 123, 127 and section 129.

71. Debentures.—(1) A company may issue debentures with an option to convert such debentures into shares, either wholly or partly at the time of redemption:

Provided that the issue of debentures with an option to convert such debentures into shares, wholly or partly, shall be approved by a special resolution passed at a general meeting.

(2) No company shall issue any debentures carrying any voting rights.

(3) Secured debentures may be issued by a company subject to such terms and conditions as may be prescribed.

(4) Where debentures are issued by a company under this section, the company shall create a debenture redemption reserve account out of the profits of the company available for payment of dividend and the amount credited to such account shall not be utilised by the company except for the redemption of debentures.

(5) No company shall issue a prospectus or make an offer or invitation to the public or to its members exceeding five hundred for the subscription of its debentures, unless the company has, before such issue or offer, appointed one or more debenture trustees and the conditions governing the appointment of such trustees shall be such as may be prescribed.

(6) A debenture trustee shall take steps to protect the interests of the debenture-holders and redress their grievances in accordance with such rules as may be prescribed.

(7) Any provision contained in a trust deed for securing the issue of debentures, or in any contract with the debenture-holders secured by a trust deed, shall be void in so far as it would have the effect of exempting a trustee thereof from, or indemnifying him against, any liability for breach of trust, where he fails to show the degree of care and due diligence required of him as a trustee, having regard to the provisions of the trust deed conferring on him any power, authority or discretion:

Provided that the liability of the debenture trustee shall be subject to such exemptions as may be agreed upon by a majority of debenture-holders holding not less than three-fourths in value of the total debentures at a meeting held for the purpose.

(8) A company shall pay interest and redeem the debentures in accordance with the terms and conditions of their issue.

(9) Where at any time the debenture trustee comes to a conclusion that the assets of the company are insufficient or are likely to become insufficient to discharge the principal amount as and when it becomes due, the debenture trustee may file a petition before the Tribunal and the Tribunal may, after hearing the

company and any other person interested in the matter, by order, impose such restrictions on the incurring of any further liabilities by the company as the Tribunal may consider necessary in the interests of the debenture-holders.

(10) Where a company fails to redeem the debentures on the date of their maturity or fails to pay interest on the debentures when it is due, the Tribunal may, on the application of any or all of the debenture-holders, or debenture trustee and, after hearing the parties concerned, direct, by order, the company to redeem the debentures forth with on payment of principal and interest due thereon.

1*

*

*

*

*

(12) A contract with the company to take up and pay for any debentures of the company may be enforced by a decree for specific performance.

(13) The Central Government may prescribe the procedure, for securing the issue of debentures, the form of debenture trust deed, the procedure for the debenture-holders to inspect the trust deed and to obtain copies thereof, quantum of debenture redemption reserve required to be created and such other matters.

72. Power to nominate.—(1) Every holder of securities of a company may, at any time, nominate, in the prescribed manner, any person to whom his securities shall vest in the event of his death.

(2) Where the securities of a company are held by more than one person jointly, the joint holders may together nominate, in the prescribed manner, any person to whom all the rights in the securities shall vest in the event of death of all the joint holders.

(3) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, in respect of the securities of a company, where a nomination made in the prescribed manner purports to confer on any person the right to vest the securities of the company, the nominee shall, on the death of the holder of securities or, as the case may be, on the death of the joint holders, become entitled to all the rights in the securities, of the holder or, as the case may be, of all the joint holders, in relation to such securities, to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner.

(4) Where the nominee is a minor, it shall be lawful for the holder of the securities, making the nomination to appoint, in the prescribed manner, any person to become entitled to the securities of the company, in the event of the death of the nominee during his minority.

CHAPTER V

ACCEPTANCE OF DEPOSITS BY COMPANIES

73. Prohibition on acceptance of deposits from public.—(1) On and after the commencement of this Act, no company shall invite, accept or renew deposits under this Act from the public except in a manner provided under this Chapter:

Provided that nothing in this sub-section shall apply to a banking company and non-banking financial company as defined in the Reserve Bank of India Act, 1934 (2 of 1934) and to such other company as the Central Government may, after consultation with the Reserve Bank of India, specify in this behalf.

(2) A company may, subject to the passing of a resolution in general meeting and subject to such rules as may be prescribed in consultation with the Reserve Bank of India, accept deposits from its members on such terms and conditions, including the provision of security, if any, or for the repayment of such deposits with interest, as may be agreed upon between the company and its members, subject to the fulfilment of the following conditions, namely:—

(a) issuance of a circular to its members including therein a statement showing the financial position of the company, the credit rating obtained, the total number of depositors and the amount due towards deposits in respect of any previous deposits accepted by the company and such other particulars in such form and in such manner as may be prescribed;

(b) filing a copy of the circular along with such statement with the Registrar within thirty days before the date of issue of the circular;

1. Sub-section (11) omitted by Act 29 of 2020, s. 15 (w.e.f. 21-12-2020).

¹[(c) depositing, on or before the thirtieth day of April each year, such sum which shall not be less than twenty per cent. of the amount of its deposits maturing during the following financial year and kept in a scheduled bank in a separate bank account to be called deposit repayment reserve account;]

2*

*

*

*

*

(e) certifying that the company has not committed any default in the repayment of deposits accepted either before or after the commencement of this Act or payment of interest on,

³[such deposits and where a default had occurred, the company made good the default and a period of five years had lapsed since the date of making good the default;] and

(f) providing security, if any for the due repayment of the amount of deposit or the interest thereon including the creation of such charge on the property or assets of the company:

Provided that in case where a company does not secure the deposits or secures such deposits partially, then, the deposits shall be termed as “unsecured deposits” and shall be so quoted in every circular, form, advertisement or in any document related to invitation or acceptance of deposits.

(3) Every deposit accepted by a company under sub-section (2) shall be repaid with interest in accordance with the terms and conditions of the agreement referred to in that sub-section.

(4) Where a company fails to repay the deposit or part thereof or any interest thereon under sub-section (3), the depositor concerned may apply to the Tribunal for an order directing the company to pay the sum due or for any loss or damage incurred by him as a result of such non-payment and for such other orders as the Tribunal may deem fit.

(5) The deposit repayment reserve account referred to in clause (c) of sub-section (2) shall not be used by the company for any purpose other than repayment of deposits.

74. Repayment of deposits, etc., accepted before commencement of this Act.—(1) Where in respect of any deposit accepted by a company before the commencement of this Act, the amount of such deposit or part thereof or any interest due thereon remains unpaid on such commencement or becomes due at any time thereafter, the company shall—

(a) file, within a period of three months from such commencement or from the date on which such payments, are due, with the Registrar a statement of all the deposits accepted by the company and sums remaining unpaid on such amount with the interest payable thereon along with the arrangements made for such repayment, notwithstanding anything contained in any other law for the time being in force or under the terms and conditions subject to which the deposit was accepted or any scheme framed under any law; and

⁴[(b) repay within three years from such commencement or on or before expiry of the period for which the deposits were accepted, whichever is earlier:

Provided that renewal of any such deposits shall be done in accordance with the provisions of Chapter V and the rules made thereunder.]

(2) The Tribunal may on an application made by the company, after considering the financial condition of the company, the amount of deposit or part thereof and the interest payable thereon and such other matters, allow further time as considered reasonable to the company to repay the deposit.

(3) If a company fails to repay the deposit or part thereof or any interest thereon within the time specified in sub-section (1) or such further time as may be allowed by the Tribunal under sub-section (2), the company shall, in addition to the payment of the amount of deposit or part thereof and the interest due, be punishable with fine which shall not be less than one crore rupees but which may extend to ten crore rupees and every officer of the company who is in default shall be punishable with imprisonment which may extend to seven years or with fine which shall not be less than twenty-five lakh rupees but which may extend to two crore rupees, or with both.

75. Damages for fraud.—(1) Where a company fails to repay the deposit or part thereof or any interest thereon referred to in section 74 within the time specified in sub-section (1) of that section or such further time as may be allowed by the Tribunal under sub-section (2) of that section, and it is proved that the

1. Subs. by Act 1 of 2018, s. 15, for clause (c) (w.e.f. 15-8-2018).

2. Clause (d) omitted by s. 15, *ibid.* (w.e.f. 15-8-2018).

3. Subs. by s. 15, *ibid.*, for “such deposits;” (w.e.f. 15-8-2018).

4. Subs. by s. 16, *ibid.*, for clause (b) (w.e.f. 15-8-2018).

deposits had been accepted with intent to defraud the depositors or for any fraudulent purpose, every officer of the company who was responsible for the acceptance of such deposit shall, without prejudice to the provisions contained in sub-section (3) of that section and liability under section 447, be personally responsible, without any limitation of liability, for all or any of the losses or damages that may have been incurred by the depositors.

(2) Any suit, proceedings or other action may be taken by any person, group of persons or any association of persons who had incurred any loss as a result of the failure of the company to repay the deposits or part thereof or any interest thereon.

76. Acceptance of deposits from public by certain companies.—(1) Notwithstanding anything contained in section 73, a public company, having such net worth or turnover as may be prescribed, may accept deposits from persons other than its members subject to compliance with the requirements provided in sub-section (2) of section 73 and subject to such rules as the Central Government may, in consultation with the Reserve Bank of India, prescribe:

Provided that such a company shall be required to obtain the rating (including its networth, liquidity and ability to pay its deposits on due date) from a recognised credit rating agency for informing the public the rating given to the company at the time of invitation of deposits from the public which ensures adequate safety and the rating shall be obtained for every year during the tenure of deposits:

Provided further that every company accepting secured deposits from the public shall within thirty days of such acceptance, create a charge on its assets of an amount not less than the amount of deposits accepted in favour of the deposit holders in accordance with such rules as may be prescribed.

(2) The provisions of this Chapter shall, *mutatis mutandis*, apply to the acceptance of deposits from public under this section.

¹[76A. Punishment for contravention of section 73 or section 76.]—Where a company accepts or invites or allows or causes any other person to accept or invite on its behalf any deposit in contravention of the manner or the conditions prescribed under section 73 or section 76 or rules made thereunder or if a company fails to repay the deposit or part thereof or any interest due thereon within the time specified under section 73 or section 76 or rules made thereunder or such further time as may be allowed by the Tribunal under section 73,—

(a) the company shall, in addition to the payment of the amount of deposit or part thereof and the interest due, be punishable with fine which shall not be less than ²[one crore rupees or twice the amount of deposit accepted by the company, whichever is lower] but which may extend to ten crore rupees; and

(b) every officer of the company who is in default shall be punishable with imprisonment which may extend to ³[seven years and with fine] which shall not be less than twenty-five lakh rupees but which may extend to two crore rupees, ^{4***}:

Provided that if it is proved that the officer of the company who is in default, has contravened such provisions knowingly or wilfully with the intention to deceive the company or its shareholders or depositors or creditors or tax authorities, he shall be liable for action under section 447.]

CHAPTER VI

REGISTRATION OF CHARGES

77. Duty to register charges, etc.—(1) It shall be the duty of every company creating a charge within or outside India, on its property or assets or any of its undertakings, whether tangible or otherwise, and situated in or outside India, to register the particulars of the charge signed by the company and the charge-holder together with the instruments, if any, creating such charge in such form, on payment of such fees and in such manner as may be prescribed, with the Registrar within thirty days of its creation:

⁵[Provided that the Registrar may, on an application by the company, allow such registration to be made—

(a) in case of charges created before the commencement of the Companies (Amendment) Act, 2019, within a period of three hundred days of such creation; or

1. Ins. by Act 21 of 2015, s. 8 (w.e.f. 29-5-2015).

2. Subs. by Act 1 of 2018, s. 17, for “one crore rupees” (w.e.f. 9-2-2018).

3. Subs. by s. 17, *ibid.*, for “seven years or with fine” (w.e.f. 9-2-2018).

4. The words “or with both” omitted by s. 17, *ibid.* (w.e.f. 9-2-2018).

5. Subs. by Act 22 of 2019, s. 11, for first and second provisos (w.e.f. 2-11-2018).

(b) in case of charges created on or after the commencement of the Companies (Amendment) Act, 2019, within a period of sixty days of such creation, on payment of such additional fees as may be prescribed:

Provided further that if the registration is not made within the period specified—

(a) in clause (a) to the first proviso, the registration of the charges shall be made within six months from the date of commencement of the Companies (Amendment) Act, 2019, on payment of such additional fees as may be prescribed and different fees may be prescribed for different classes of companies;

(b) in clause (b) to the first proviso, the Registrar may, on an application, allow such registration to be made within a further period of sixty days after payment of such *ad valorem* fees as may be prescribed.]

Provided also that any subsequent registration of a charge shall not prejudice any right acquired in respect of any property before the charge is actually registered:

¹[Provided also that this section shall not apply to such charges as may be prescribed in consultation with the Reserve Bank of India.]

(2) Where a charge is registered with the Registrar under sub-section (1), he shall issue a certificate of registration of such charge in such form and in such manner as may be prescribed to the company and, as the case may be, to the person in whose favour the charge is created.

(3) Notwithstanding anything contained in any other law for the time being in force, no charge created by a company shall be taken into account by the liquidator ²[appointed under this Act or the Insolvency and Bankruptcy Code, 2016 (31 of 2016), as the case may be,] or any other creditor unless it is duly registered under sub-section (1) and a certificate of registration of such charge is given by the Registrar under sub-section (2).

(4) Nothing in sub-section (3) shall prejudice any contract or obligation for the repayment of the money secured by a charge.

78. Application for registration of charge.—Where a company fails to ³[register the charge within the period of thirty days referred to in sub-section (1) of section 77] without prejudice to its liability in respect of any offence under this Chapter, the person in whose favour the charge is created may apply to the Registrar for registration of the charge along with the instrument created for the charge, within such time and in such form and manner as may be prescribed and the Registrar may, on such application, within a period of fourteen days after giving notice to the company, unless the company itself registers the charge or shows sufficient cause why such charge should not be registered, allow such registration on payment of such fees, as may be prescribed:

Provided that where registration is effected on application of the person in whose favour the charge is created, that person shall be entitled to recover from the company the amount of any fees or additional fees paid by him to the Registrar for the purpose of registration of charge.

79. Section 77 to apply in certain matters.—The provisions of section 77 relating to registration of charges shall, so far as may be, apply to—

(a) a company acquiring any property subject to a charge within the meaning of that section; or

(b) any modification in the terms or conditions or the extent or operation of any charge registered under that section.

80. Date of notice of charge.—Where any charge on any property or assets of a company or any of its undertakings is registered under section 77, any person acquiring such property, assets, undertakings or part thereof or any share or interest therein shall be deemed to have notice of the charge from the date of such registration.

81. Register of charges to be kept by Registrar.—(1) The Registrar shall, in respect of every company, keep a register containing particulars of the charges registered under this Chapter in such form and in such manner as may be prescribed.

1. The proviso ins. by Act 1 of 2018, s. 18 (w.e.f. 7-5-2018).

2. Ins. by Act 31 of 2016, s. 255 and the Eleventh Schedule (w.e.f. 15-11-2016).

3. Subs. by Act 1 of 2018, s. 19, for “register the charge within the period specified in section 77” (w.e.f. 7-5-2018).

(2) A register kept in pursuance of this section shall be open to inspection by any person on payment of such fees as may be prescribed for each inspection.

82. Company to report satisfaction of charge.—(1) A company shall give intimation to the Registrar in the prescribed form, of the payment or satisfaction in full of any charge registered under this Chapter within a period of thirty days from the date of such payment or satisfaction ^{1***}.

²[Provided that the Registrar may, on an application by the company or the charge holder, allow such intimation of payment or satisfaction to be made within a period of three hundred days of such payment or satisfaction on payment of such additional fees as may be prescribed.]

(2) The Registrar shall, on receipt of intimation under sub-section (1), cause a notice to be sent to the holder of the charge calling upon him to show cause within such time not exceeding fourteen days, as may be specified in such notice, as to why payment or satisfaction in full should not be recorded as intimated to the Registrar, and if no cause is shown, by such holder of the charge, the Registrar shall order that a memorandum of satisfaction shall be entered in the register of charges kept by him under section 81 and shall inform the company that he has done so:

Provided that the notice referred to in this sub-section shall not be required to be sent, in case the intimation to the Registrar in this regard is in the specified form and signed by the holder of charge.

(3) If any cause is shown, the Registrar shall record a note to that effect in the register of charges and shall inform the company.

(4) Nothing in this section shall be deemed to affect the powers of the Registrar to make an entry in the register of charges under section 83 or otherwise than on receipt of an intimation from the company.

83. Power of Registrar to make entries of satisfaction and release in absence of intimation from company.—(1) The Registrar may, on evidence being given to his satisfaction with respect to any registered charge,—

(a) that the debt for which the charge was given has been paid or satisfied in whole or in part; or

(b) that part of the property or undertaking charged has been released from the charge or has ceased to form part of the company's property or undertaking,

enter in the register of charges a memorandum of satisfaction in whole or in part, or of the fact that part of the property or undertaking has been released from the charge or has ceased to form part of the company's property or undertaking, as the case may be, notwithstanding the fact that no intimation has been received by him from the company.

(2) The Registrar shall inform the affected parties within thirty days of making the entry in the register of charges kept under sub-section (1) of section 81.

84. Intimation of appointment of receiver or manager.—(1) If any person obtains an order for the appointment of a receiver of, or of a person to manage, the property, subject to a charge, of a company or if any person appoints such receiver or person under any power contained in any instrument, he shall, within a period of thirty days from the date of the passing of the order or of the making of the appointment, give notice of such appointment to the company and the Registrar along with a copy of the order or instrument and the Registrar shall, on payment of the prescribed fees, register particulars of the receiver, person or instrument in the register of charges.

(2) Any person appointed under sub-section (1) shall, on ceasing to hold such appointment, give to the company and the Registrar a notice to that effect and the Registrar shall register such notice.

85. Company's register of charges.—(1) Every company shall keep at its registered office a register of charges in such form and in such manner as may be prescribed, which shall include there in all charges and floating charges affecting any property or assets of the company or any of its undertakings, indicating in each case such particulars as may be prescribed:

Provided that a copy of the instrument creating the charge shall also be kept at the registered office of the company along with the register of charges.

1. Omitted by Act 1 of 2018, s. 20, for certain words (w.e.f. 5-7-2018).

2. The Proviso ins. by s. 20, *ibid.* (w.e.f. 5-7-2018).

(2) The register of charges and instrument of charges, kept under sub-section (1) shall be open for inspection during business hours—

(a) by any member or creditor without any payment of fees; or

(b) by any other person on payment of such fees as may be prescribed,

subject to such reasonable restrictions as the company may, by its articles, impose.

86. Punishment for contravention.—¹[²(1)] If any company is in default in complying with any of the provisions of this Chapter, the company shall be liable to a penalty of five lakh rupees and every officer of the company who is in default shall be liable to a penalty of fifty thousand rupees].

³[(2) If any person willfully furnishes any false or incorrect information or knowingly suppresses any material information, required to be registered in accordance with the provisions of section 77, he shall be liable for action under section 447.]

⁴[**87. Rectification by Central Government in Register of charges.**—The Central Government on being satisfied that—

(a) the omission to give intimate to the Registrar of the payment or satisfaction of a charge, within the time required under this Chapter; or

(b) the omission or misstatement of any particulars, in any filing previously made to the Registrar with respect to any charge or modification thereof or with respect to any memorandum of satisfaction or other entry made in pursuance of section 82 or section 83,

was accidental or due to inadvertence or some other sufficient cause or it is not of a nature to prejudice the position of creditors or shareholders of the company, it may, on the application of the company or any person interested and on such terms and conditions as it deems just and expedient, direct that the time for the giving of intimation of payment or satisfaction shall be extended or, as the case may require, that the omission or misstatement shall be rectified.]

CHAPTER VII

MANAGEMENT AND ADMINISTRATION

88. Register of members, etc.—(1) Every company shall keep and maintain the following registers in such form and in such manner as may be prescribed, namely:—

(a) register of members indicating separately for each class of equity and preference shares held by each member residing in or outside India;

(b) register of debenture-holders; and

(c) register of any other security holders.

(2) Every register maintained under sub-section (1) shall include an index of the names included therein.

(3) The register and index of beneficial owners maintained by a depository under section 11 of the Depositories Act, 1996 (22 of 1996), shall be deemed to be the corresponding register and index for the purposes of this Act.

(4) A company may, if so authorised by its articles, keep in any country outside India, in such manner as may be prescribed, a part of the register referred to in sub-section (1), called “foreign register” containing the names and particulars of the members, debenture-holders, other security holders or beneficial owners residing outside India.

⁵[(5) If a company does not maintain a register of members or debenture-holders or other security holders or fails to maintain them in accordance with the provisions of sub-section (1) or sub-section (2), the

1. Subs. by Act 29 of 2020, s. 16, for sub-section (1) (w.e.f. 21-12-2020).

2. Section 86 numbered as sub-section (1) thereof by Act 22 of 2019, s.12 (w.e.f. 2-11-2018).

3. Ins. by s. 12, *ibid.* (w.e.f. 2-11-2018).

4. Subs. by s. 13, *ibid.*, for section 86 (w.e.f. 2-11-2018).

5. Subs. by Act 29 of 2020, s. 17, for sub-section (5) (w.e.f. 21-12-2020).

company shall be liable to a penalty of three lakh rupees and every officer of the company who is in default shall be liable to a penalty of fifty thousand rupees.]

89. Declaration in respect of beneficial interest in any share.—(1) Where the name of a person is entered in the register of members of a company as the holder of shares in that company but who does not hold the beneficial interest in such shares, such person shall make a declaration within such time and in such form as may be prescribed to the company specifying the name and other particulars of the person who holds the beneficial interest in such shares.

(2) Every person who holds or acquires a beneficial interest in share of a company shall make a declaration to the company specifying the nature of his interest, particulars of the person in whose name the shares stand registered in the books of the company and such other particulars as may be prescribed.

(3) Where any change occurs in the beneficial interest in such shares, the person referred to in sub-section (1) and the beneficial owner specified in sub-section (2) shall, within a period of thirty days from the date of such change, make a declaration to the company in such form and containing such particulars as may be prescribed.

(4) The Central Government may make rules to provide for the manner of holding and disclosing beneficial interest and beneficial ownership under this section.

¹[(5) If any person fails to make a declaration as required under sub-section (1) or sub-section (2) or sub-section (3), he shall be liable to a penalty of fifty thousand rupees and in case of continuing failure, with a further penalty of two hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees.]

(6) Where any declaration under this section is made to a company, the company shall make a note of such declaration in the register concerned and shall file, within thirty days from the date of receipt of declaration by it, a return in the prescribed form with the Registrar in respect of such declaration with such fees or additional fees as may be prescribed, ^{2***}.

³[(7) If a company, required to file a return under sub-section (6), fails to do so before the expiry of the time specified therein, the company and every officer of the company who is in default shall be liable to a penalty of one thousand rupees for each day during which such failure continues, subject to a maximum of five lakh rupees in the case of a company and two lakh rupees in case of an officer who is in default.]

(8) No right in relation to any share in respect of which a declaration is required to be made under this section but not made by the beneficial owner, shall be enforceable by him or by any person claiming through him.

(9) Nothing in this section shall be deemed to prejudice the obligation of a company to pay dividend to its members under this Act and the said obligation shall, on such payment, stand discharged.

⁴[(10) For the purposes of this section and section 90, beneficial interest in a share includes, directly or indirectly, through any contract, arrangement or otherwise, the right or entitlement of a person alone or together with any other person to—

- (i) exercise or cause to be exercised any or all of the rights attached to such share; or
- (ii) receive or participate in any dividend or other distribution in respect of such share.]

⁵[(11) The Central Government may, by notification, exempt any class or classes of persons from complying with any of the requirements of this section, except sub-section (10), if it is considered necessary to grant such exemption in the public interest and any such exemption may be granted either unconditionally or subject to such conditions as may be specified in the notification.]

⁶[90. Register of significant beneficial owners in a company.]—(1) Every individual, who acting alone or together, or through one or more persons or trust, including a trust and persons resident outside India, holds beneficial interests, of not less than twenty-five per cent. or such other percentage as may be prescribed, in shares of a company or the right to exercise, or the actual exercising of significant influence

1. Subs. by Act 29 of 2020, s. 18, for sub-section (5) (w.e.f. 21-12-2020).

2. The words and figures “within the time specified under section 403” omitted by Act 1 of 2018, s. 21 (w.e.f. 7-5-2018).

3. Subs. by Act 29 of 2020, s. 18, for sub-section (7) (w.e.f. 21-12-2020).

4. Ins. by Act 1 of 2018, s. 21, (w.e.f. 13-6-2018).

5. Ins. by Act 29 of 2020, s. 18 (w.e.f. 22-1-2021).

6. Subs. by Act 1 of 2018, s. 22, for section 90 (w.e.f. 13-6-2018).

or control as defined in clause (27) of section 2, over the company (herein referred to as “significant beneficial owner”), shall make a declaration to the company, specifying the nature of his interest and other particulars, in such manner and within such period of acquisition of the beneficial interest or rights and any change thereof, as may be prescribed:

Provided that the Central Government may prescribe a class or classes of persons who shall not be required to make declaration under this sub-section.

(2) Every company shall maintain a register of the interest declared by individuals under sub-section (1) and changes therein which shall include the name of individual, his date of birth, address, details of ownership in the company and such other details as may be prescribed.

(3) The register maintained under sub-section (2) shall be open to inspection by any member of the company on payment of such fees as may be prescribed.

(4) Every company shall file a return of significant beneficial owners of the company and changes therein with the Registrar containing names, addresses and other details as may be prescribed within such time, in such form and manner as may be prescribed.

¹[(4A) Every company shall take necessary steps to identify an individual who is a significant beneficial owner in relation to the company and require him to comply with the provisions of this section.]

(5) A company shall give notice, in the prescribed manner, to any person (whether or not a member of the company) whom the company knows or has reasonable cause to believe—

(a) to be a significant beneficial owner of the company;

(b) to be having knowledge of the identity of a significant beneficial owner or another person likely to have such knowledge; or

(c) to have been a significant beneficial owner of the company at any time during the three years immediately preceding the date on which the notice is issued,

and who is not registered as a significant beneficial owner with the company as required under this section.

(6) The information required by the notice under sub-section (5) shall be given by the concerned person within a period not exceeding thirty days of the date of the notice.

(7) The company shall,—

(a) where that person fails to give the company the information required by the notice within the time specified therein; or

(b) where the information given is not satisfactory,

apply to the Tribunal within a period of fifteen days of the expiry of the period specified in the notice, for an order directing that the shares in question be subject to restrictions with regard to transfer of interest, suspension of all rights attached to the shares and such other matters as may be prescribed.

(8) On any application made under sub-section (7), the Tribunal may, after giving an opportunity of being heard to the parties concerned, make such order restricting the rights attached with the shares within a period of sixty days of receipt of application or such other period as may be prescribed.

²[(9) The company or the person aggrieved by the order of the Tribunal may make an application to the Tribunal for relaxation or lifting of the restrictions placed under sub-section (8), within a period of one year from the date of such order:

Provided that if no such application has been filed within a period of one year from the date of the order under sub-section (8), such shares shall be transferred, without any restrictions, to the authority constituted under sub-section (5) of section 125, in such manner as may be prescribed;]

³[(9A) The Central Government may make rules for the purposes of this section.]

⁴[(10) If any person fails to make a declaration as required under sub-section (1), he shall be liable to a penalty of fifty thousand rupees and in case of continuing failure, with a further penalty of one thousand

1. Ins. by Act 22 of 2019, s. 14 (w.e.f. 15-8-2019).

2. Subs. by Act 22 of 2019, s. 14, for sub-section (9) (w.e.f. 2-11-2018).

3. Ins. by s. 14, *ibid.* (w.e.f. 15-8-2019).

4. Subs. by Act 29 of 2020, s. 19, for sub-section (10) (w.e.f. 21-12-2020).

rupees for each day after the first during which such failure continues, subject to a maximum of two lakh rupees.]

¹[(11) If a company, required to maintain register under sub-section (2) and file the information under sub-section (4) ²[or required to take necessary steps under sub-section (4A)], fails to do so or denies inspection as provided therein, the company shall be liable to a penalty of one lakh rupees and in case of continuing failure, with a further penalty of five hundred rupees for each day, after the first during which such failure continues, subject to a maximum of five lakh rupees and every officer of the company who is in default shall be liable to a penalty of twenty-five thousand rupees and in case of continuing failure, with a further penalty of two hundred rupees for each day, after the first during which such failure continues, subject to a maximum of one lakh rupees.]

(12) If any person wilfully furnishes any false or incorrect information or suppresses any material information of which he is aware in the declaration made under this section, he shall be liable to action under section 447.]

91. Power to close register of members or debenture-holders or other security holders.—(1) A company may close the register of members or the register of debenture-holders or the register of other security holders for any period or periods not exceeding in the aggregate forty-five days in each year, but not exceeding thirty days at any one time, subject to giving of previous notice of at least seven days or such lesser period as may be specified by Securities and Exchange Board for listed companies or the companies which intend to get their securities listed, in such manner as may be prescribed.

(2) If the register of members or of debenture-holders or of other security holders is closed without giving the notice as provided in sub-section (1), or after giving shorter notice than that so provided, or for a continuous or an aggregate period in excess of the limits specified in that sub-section, the company and every officer of the company who is in default shall be liable to a penalty of five thousand rupees for every day subject to a maximum of one lakh rupees during which the register is kept closed.

92. Annual return.—(1) Every company shall prepare a return (hereinafter referred to as the annual return) in the prescribed form containing the particulars as they stood on the close of the financial year regarding—

(a) its registered office, principal business activities, particulars of its holding, subsidiary and associate companies;

(b) its shares, debentures and other securities and shareholding pattern;

2* * * *

(d) its members and debenture-holders along with changes therein since the close of the previous financial year;

(e) its promoters, directors, key managerial personnel along with changes there in since the close of the previous financial year;

(f) meetings of members or a class thereof, Board and its various committees along with attendance details;

(g) remuneration of directors and key managerial personnel;

(h) penalty or punishment imposed on the company, its directors or officers and details of compounding of offences and appeals made against such penalty or punishment;

(i) matters relating to certification of compliances, disclosures as may be prescribed;

(j) details, as may be prescribed, in respect of shares held by or on behalf of the Foreign Institutional Investors ^{3***}; and

(k) such other matters as may be prescribed,

and signed by a director and the company secretary, or where there is no company secretary, by a company secretary in practice:

Provided that in relation to One Person Company and small company, the annual return shall be signed by the company secretary, or where there is no company secretary, by the director of the company.

1. Subs. by Act 29 of 2020, s. 19, for sub-section (11) (w.e.f. 21-12-2020).

2. Clause (c) omitted by Act 1 of 2018, s. 23 (w.e.f. 5-3-2021).

3. The words “indicating their names, addresses, countries of incorporation, registration and percentage of shareholding held by them” omitted by s. 23, *ibid* (w.e.f. 5-3-2021).

¹[Provided further that the Central Government may prescribe abridged form of annual return for “One Person Company, small company and such other class of classes of companies as may be prescribed”.]

(2) ²[The annual return, filed by a listed company or, by a company having such paid-up capital or turnover as may be prescribed] shall be certified by a company secretary in practice in the prescribed form, stating that the annual return discloses the facts correctly and adequately and that the company has complied with all the provisions of this Act.

(3) An extract of the annual return in such form as may be prescribed shall form part of the Board’s report.

(4) Every company shall file with the Registrar a copy of the annual return, within sixty days from the date on which the annual general meeting is held or where no annual general meeting is held in any year within sixty days from the date on which the annual general meeting should have been held together with the statement specifying the reasons for not holding the annual general meeting, with such fees or additional fees as may be prescribed, ^{3***.}

⁴[(5) If any company fails to file its annual return under sub-section (4), before the expiry of the period specified therein, such company and its every officer who is in default shall be liable to a penalty of ⁵[ten thousand rupees] and in case of continuing failure, with a further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of ⁶[two lakh rupees in case of a company and fifty thousand rupees in case of an officer who is an default].]

(6) If a company secretary in practice certifies the annual return otherwise than in conformity with the requirements of this section or the rules made thereunder, he shall be ⁷[liable to a penalty of two lakh rupees].

93. [*Return to be filed with Registrar in case promoter’s stake changes.*] Omitted by the Companies Act, 2017 (1 of 2018), s. 24 (w.e.f. 13-6-2018).

94. Place of keeping and inspection of registers, returns, etc.—(1) The registers required to be kept and maintained by a company under section 88 and copies of the annual return filed under section 92 shall be kept at the registered office of the company:

Provided that such registers or copies of return may also be kept at any other place in India in which more than one-tenth of the total number of members entered in the register of members reside, if approved by a special resolution passed at a general meeting of the company ^{8***:}

Provided further that the period for which the registers, returns and records are required to be kept shall be such as may be prescribed.

(2) The registers and their indices, except when they are closed under the provisions of this Act, and the copies of all the returns shall be open for inspection by any member, debenture-holder, other security holder or beneficial owner, during business hours without payment of any fees and by any other person on payment of such fees as may be prescribed.

(3) Any such member, debenture-holder, other security holder or beneficial owner or any other person may—

(a) take extracts from any register, or index or return without payment of any fee; or

(b) require a copy of any such register or entries therein or return on payment of such fees as may be prescribed.

⁹[Provided that such particulars of the register or index or return as may be prescribed shall not be available for inspection under sub-section (2) or for taking extracts or copies under this sub-section.].

1. Ins. by Act 1 of 2018, s. 23 (w.e.f. 5-3-2021).

2. Subs. by S.O. 1177 (E), dated 29th April, 2014 for certain words (w.e.f. 29-4-2014).

3. The words “within the time as specified, under section 403” omitted by Act 1 of 2018, s. 23 (w.e.f. 7-5-2018).

4. Subs. by Act 22 of 2019, s. 15, for sub-section (5) (w.e.f. 2-11-2018).

5. Subs. by Act 29 of 2020, s. 20, for “fifty thousand rupees” (w.e.f. 21-12-2020).

6. Subs. by s. 20, *ibid.*, for “five lakh rupees” (w.e.f. 21-12-2020).

7. Subs. by s. 20, *ibid.*, for “punishable with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees” (w.e.f. 21-12-2020).

8. The words “and the Registrar has been given a copy of the proposed special resolution in advance” omitted by Act 1 of 2018, s. 25 (w.e.f. 13-6-2018).

9. The proviso ins. by Act 1 of 2018, s. 25 (w.e.f. 13-6-2018).

(4) If any inspection or the making of any extract or copy required under this section is refused, the company and every officer of the company who is in default shall be liable, for each such default, to a penalty of one thousand rupees for every day subject to a maximum of one lakh rupees during which the refusal or default continues.

(5) The Central Government may also, by order, direct an immediate inspection of the document, or direct that the extract required shall forthwith be allowed to be taken by the person requiring it.

95. Registers, etc., to be evidence.—The registers, their indices and copies of annual returns maintained under sections 88 and 94 shall be *prima facie* evidence of any matter directed or authorised to be inserted therein by or under this Act.

96. Annual general meeting.—(1) Every company other than a One Person Company shall in each year hold in addition to any other meetings, a general meeting as its annual general meeting and shall specify the meeting as such in the notices calling it, and not more than fifteen months shall elapse between the date of one annual general meeting of a company and that of the next:

Provided that in case of the first annual general meeting, it shall be held within a period of nine months from the date of closing of the first financial year of the company and in any other case, within a period of six months, from the date of closing of the financial year:

Provided further that if a company holds its first annual general meeting as aforesaid, it shall not be necessary for the company to hold any annual general meeting in the year of its incorporation:

Provided also that the Registrar may, for any special reason, extend the time within which any annual general meeting, other than the first annual general meeting, shall be held, by a period not exceeding three months.

(2) Every annual general meeting shall be called during business hours, that is, between 9 a.m. and 6 p.m. on any day that is not a National Holiday and shall be held either at the registered office of the company or at some other place within the city, town or village in which the registered office of the company is situate:

¹[Provided that annual general meeting of an unlisted company may be held at any place in India if consent is given in writing or by electronic mode by all the members in advance:

Provided further that] the Central Government may exempt any company from the provisions of this sub-section subject to such conditions as it may impose.

Explanation.—For the purposes of this sub-section, “National Holiday” means and includes a day declared as National Holiday by the Central Government.

97. Power of Tribunal to call annual general meeting.—(1) If any default is made in holding the annual general meeting of a company under section 96, the Tribunal may, notwithstanding anything contained in this Act or the articles of the company, on the application of any member of the company, call, or direct the calling of, an annual general meeting of the company and give such ancillary or consequential directions as the Tribunal thinks expedient:

Provided that such directions may include a direction that one member of the company present in person or by proxy shall be deemed to constitute a meeting.

(2) A general meeting held in pursuance of sub-section (1) shall, subject to any directions of the Tribunal, be deemed to be an annual general meeting of the company under this Act.

98. Power of Tribunal to call meetings of members, etc.—(1) If for any reason it is impracticable to call a meeting of a company, other than an annual general meeting, in any manner in which meetings of the company may be called, or to hold or conduct the meeting of the company in the manner prescribed by this Act or the articles of the company, the Tribunal may, either *suo motu* or on the application of any director or member of the company who would be entitled to vote at the meeting,—

(a) order a meeting of the company to be called, held and conducted in such manner as the Tribunal thinks fit; and

1. Subs. by Act 1 of 2018, s. 26, for “Provided that” (w.e.f. 13-6-2018).

(b) give such ancillary or consequential directions as the Tribunal thinks expedient, including directions modifying or supplementing in relation to the calling, holding and conducting of the meeting, the operation of the provisions of this Act or articles of the company:

Provided that such directions may include a direction that one member of the company present in person or by proxy shall be deemed to constitute a meeting.

(2) Any meeting called, held and conducted in accordance with any order made under sub-section (1) shall, for all purposes, be deemed to be a meeting of the company duly called, held and conducted.

99. Punishment for default in complying with provisions of sections 96 to 98.—If any default is made in holding a meeting of the company in accordance with section 96 or section 97 or section 98 or in complying with any directions of the Tribunal, the company and every officer of the company who is in default shall be punishable with fine which may extend to one lakh rupees and in the case of a continuing default, with a further fine which may extend to five thousand rupees for every day during which such default continues.

100. Calling of extraordinary general meeting.—(1) The Board may, whenever it deems fit, call an extraordinary general meeting of the company.

¹[Provided that an extraordinary general meeting of the company, other than of the wholly owned subsidiary of a company incorporated outside India, shall be held at a place within India.]

(2) The Board shall, at the requisition made by,—

(a) in the case of a company having a share capital, such number of members who hold, on the date of the receipt of the requisition, not less than one-tenth of such of the paid-up share capital of the company as on that date carries the right of voting;

(b) in the case of a company not having a share capital, such number of members who have, on the date of receipt of the requisition, not less than one-tenth of the total voting power of all the members having on the said date a right to vote,

call an extraordinary general meeting of the company within the period specified in sub-section (4).

(3) The requisition made under sub-section (2) shall set out the matters for the consideration of which the meeting is to be called and shall be signed by the requisitionists and sent to the registered office of the company.

(4) If the Board does not, within twenty-one days from the date of receipt of a valid requisition in regard to any matter, proceed to call a meeting for the consideration of that matter on a day not later than forty-five days from the date of receipt of such requisition, the meeting may be called and held by the requisitionists themselves within a period of three months from the date of the requisition.

(5) A meeting under sub-section (4) by the requisitionists shall be called and held in the same manner in which the meeting is called and held by the Board.

(6) Any reasonable expenses incurred by the requisitionists in calling a meeting under sub-section (4) shall be reimbursed to the requisitionists by the company and the sums so paid shall be deducted from any fee or other remuneration under section 197 payable to such of the directors who were in default in calling the meeting.

101. Notice of meeting.—(1) A general meeting of a company may be called by giving not less than clear twenty-one days' notice either in writing or through electronic mode in such manner as maybe prescribed:

²[Provided that a general meeting may be called after giving shorter notice than that specified in this sub-section if consent, in writing or by electronic mode, is accorded thereto—

(i) in the case of an annual general meeting, by not less than ninety-five per cent. of the members entitled to vote thereat; and

(ii) in the case of any other general meeting, by members of the company—

1. Ins. by Act 1 of 2018, s. 27 (w.e.f. 9-2-2018).

2. The proviso subs. by s. 28, *ibid.*, (w.e.f. 9-2-2018).

(a) holding, if the company has a share capital, majority in number of members entitled to vote and who represent not less than ninety-five per cent. of such part of the paid-up share capital of the company as gives a right to vote at the meeting; or

(b) having, if the company has no share capital, not less than ninety-five per cent. of the total voting power exercisable at that meeting:

Provided further that where any member of a company is entitled to vote only on some resolution or resolutions to be moved at a meeting and not on the others, those members shall be taken into account for the purposes of this sub-section in respect of the former resolution or resolutions and not in respect of the latter.]

(2) Every notice of a meeting shall specify the place, date, day and the hour of the meeting and shall contain a statement of the business to be transacted at such meeting.

(3) The notice of every meeting of the company shall be given to—

(a) every member of the company, legal representative of any deceased member or the assignee of an insolvent member;

(b) the auditor or auditors of the company; and

(c) every director of the company.

(4) Any accidental omission to give notice to, or the non-receipt of such notice by, any member or other person who is entitled to such notice for any meeting shall not invalidate the proceedings of the meeting.

102. Statement to be annexed to notice.—(1) A statement setting out the following material facts concerning each item of special business to be transacted at a general meeting, shall be annexed to the notice calling such meeting, namely:—

(a) the nature of concern or interest, financial or otherwise, if any, in respect of each items of—

(i) every director and the manager, if any;

(ii) every other key managerial personnel; and

(iii) relatives of the persons mentioned in sub-clauses (i) and (ii);

(b) any other information and facts that may enable members to understand the meaning, scope and implications of the items of business and to take decision thereon.

(2) For the purposes of sub-section (1),—

(a) in the case of an annual general meeting, all business to be transacted thereat shall be deemed special, other than—

(i) the consideration of financial statements and the reports of the Board of Directors and auditors;

(ii) the declaration of any dividend;

(iii) the appointment of directors in place of those retiring;

(iv) the appointment of, and the fixing of the remuneration of, the auditors; and

(b) in the case of any other meeting, all business shall be deemed to be special:

Provided that where any item of special business to be transacted at a meeting of the company relates to or affects any other company, the extent of shareholding interest in that other company of every promoter, director, manager, if any, and of every other key managerial personnel of the first mentioned company shall, if the extent of such shareholding is not less than two per cent. of the paid-up share capital of that company, also be set out in the statement.

(3) Where any item of business refers to any document, which is to be considered at the meeting, the time and place where such document can be inspected shall be specified in the statement under sub-section (1).

(4) Where as a result of the non-disclosure or insufficient disclosure in any statement referred to in sub-section (1), being made by a promoter, director, manager, if any, or other key managerial personnel, any benefit which accrues to such promoter, director, manager or other key managerial personnel or their relatives, either directly or indirectly, the promoter, director, manager or other key managerial personnel, as the case may be, shall hold such benefit in trust for the company, and shall, without prejudice to any other action being taken against him under this Act or under any other law for the time being in force, be liable to compensate the company to the extent of the benefit received by him.

¹[(5) Without prejudice to the provisions of sub-section (4), if any default is made in complying with the provisions of this section, every promoter, director, manager or other key managerial personnel of the company who is in default shall be liable to a penalty of fifty thousand rupees or five times the amount of benefit accruing to the promoter, director, manager or other key managerial personnel or any of his relatives, whichever is higher.]

103. Quorum for meetings.—(1) Unless the articles of the company provide for a larger number,—

(a) in case of a public company,—

(i) five members personally present if the number of members as on the date of meeting is not more than one thousand;

(ii) fifteen members personally present if the number of members as on the date of meeting is more than one thousand but up to five thousand;

(iii) thirty members personally present if the number of members as on the date of the meeting exceeds five thousand;

(b) in the case of a private company, two members personally present, shall be the quorum for a meeting of the company.

(2) If the quorum is not present within half-an-hour from the time appointed for holding a meeting of the company—

(a) the meeting shall stand adjourned to the same day in the next week at the same time and place, or to such other date and such other time and place as the Board may determine; or

(b) the meeting, if called by requisitionists under section 100, shall stand cancelled:

Provided that in case of an adjourned meeting or of a change of day, time or place of meeting under clause (a), the company shall give not less than three days notice to the members either individually or by publishing an advertisement in the newspapers (one in English and one in vernacular language) which is in circulation at the place where the registered office of the company is situated.

(3) If at the adjourned meeting also, a quorum is not present within half-an-hour from the time appointed for holding meeting, the members present shall be the quorum.

104. Chairman of meetings.—(1) Unless the articles of the company otherwise provide, the members personally present at the meeting shall elect one of themselves to be the Chairman thereof on a show of hands.

(2) If a poll is demanded on the election of the Chairman, it shall be taken forthwith in accordance with the provisions of this Act and the Chairman elected on a show of hands under sub-section (1) shall continue to be the Chairman of the meeting until some other person is elected as Chairman as a result of the poll, and such other person shall be the Chairman for the rest of the meeting.

1. Subs. by Act 22 of 2019, s. 16, for sub-section (5) (w.e.f. 2-11-2018).

105. Proxies.—(1) Any member of a company entitled to attend and vote at a meeting of the company shall be entitled to appoint another person as a proxy to attend and vote at the meeting on his behalf:

Provided that a proxy shall not have the right to speak at such meeting and shall not be entitled to vote except on a poll:

Provided further that, unless the articles of a company otherwise provide, this sub-section shall not apply in the case of a company not having a share capital:

Provided also that the Central Government may prescribe a class or classes of companies whose members shall not be entitled to appoint another person as a proxy:

Provided also that a person appointed as proxy shall act on behalf of such member or number of members not exceeding fifty and such number of shares as may be prescribed.

(2) In every notice calling a meeting of a company which has a share capital, or the articles of which provide for voting by proxy at the meeting, there shall appear with reasonable prominence a statement that a member entitled to attend and vote is entitled to appoint a proxy, or, where that is allowed, one or more proxies, to attend and vote instead of himself, and that a proxy need not be a member.

(3) If default is made in complying with sub-section (2), every officer of the company who is in default shall be ¹[liable to a penalty of five thousands rupees].

(4) Any provision contained in the articles of a company which specifies or requires a longer period than forty-eight hours before a meeting of the company, for depositing with the company or any other person any instrument appointing a proxy or any other document necessary to show the validity or otherwise relating to the appointment of a proxy in order that the appointment may be effective at such meeting, shall have effect as if a period of forty-eight hours had been specified in or required by such provision for such deposit.

(5) If for the purpose of any meeting of a company, invitations to appoint as proxy a person or one of a number of persons specified in the invitations are issued at the company's expense to any member entitled to have a notice of the meeting sent to him and to vote thereat by proxy, every officer of the company ²[who issues the invitation as aforesaid or authorises or permits their issue, shall be liable to a penalty of fifty thousand rupees]:

Provided that an officer shall not be ³[liable] under this sub-section by reason only of the issue to a member at his request in writing of a form of appointment naming the proxy, or of a list of persons willing to act as proxies, if the form or list is available on request in writing to every member entitled to vote at the meeting by proxy.

(6) The instrument appointing a proxy shall—

(a) be in writing; and

(b) be signed by the appointer or his attorney duly authorised in writing or, if the appointer is a body corporate, be under its seal or be signed by an officer or an attorney duly authorised by it.

(7) An instrument appointing a proxy, if in the form as may be prescribed, shall not be questioned on the ground that it fails to comply with any special requirements specified for such instrument by the articles of a company.

(8) Every member entitled to vote at a meeting of the company, or on any resolution to be moved thereat, shall be entitled during the period beginning twenty-four hours before the time fixed for the commencement of the meeting and ending with the conclusion of the meeting, to inspect the proxies lodged, at any time during the business hours of the company, provided not less than three days' notice in writing of the intention so to inspect is given to the company.

1. Subs. by Act 22 of 2019, s. 17, for "punishable with fine which may extend to five thousand rupees" (w.e.f. 2-11-2018).

2. Subs. by Act 29 of 2020, s. 21, for certain words (w.e.f. 21-12-2020).

3. Subs. by s. 21, *ibid.*, for "punishable" (w.e.f. 21-12-2020).

106. Restriction on voting rights.—(1) Notwithstanding anything contained in this Act, the articles of a company may provide that no member shall exercise any voting right in respect of any shares registered in his name on which any calls or other sums presently payable by him have not been paid, or in regard to which the company has exercised any right of lien.

(2) A company shall not, except on the grounds specified in sub-section (1), prohibit any member from exercising his voting right on any other ground.

(3) On a poll taken at a meeting of a company, a member entitled to more than one vote, or his proxy, where allowed, or other person entitled to vote for him, as the case may be, need not, if he votes, use all his votes or cast in the same way all the votes he uses.

107. Voting by show of hands.—(1) At any general meeting, a resolution put to the vote of the meeting shall, unless a poll is demanded under section 109 or the voting is carried out electronically, be decided on a show of hands.

(2) A declaration by the Chairman of the meeting of the passing of a resolution or otherwise by show of hands under sub-section (1) and an entry to that effect in the books containing the minutes of the meeting of the company shall be conclusive evidence of the fact of passing of such resolution or otherwise.

108. Voting through electronic means.—The Central Government may prescribe the class or classes of companies and manner in which a member may exercise his right to vote by the electronic means.

109. Demand for poll.—(1) Before or on the declaration of the result of the voting on any resolution on show of hands, a poll may be ordered to be taken by the Chairman of the meeting on his own motion, and shall be ordered to be taken by him on a demand made in that behalf,—

(a) in the case a company having a share capital, by the members present in person or by proxy, where allowed, and having not less than one-tenth of the total voting power or holding shares on which an aggregate sum of not less than five lakh rupees or such higher amount as may be prescribed has been paid-up; and

(b) in the case of any other company, by any member or members present in person or by proxy, where allowed, and having not less than one-tenth of the total voting power.

(2) The demand for a poll may be withdrawn at any time by the persons who made the demand.

(3) A poll demanded for adjournment of the meeting or appointment of Chairman of the meeting shall be taken forthwith.

(4) A poll demanded on any question other than adjournment of the meeting or appointment of Chairman shall be taken at such time, not being later than forty-eight hours from the time when the demand was made, as the Chairman of the meeting may direct.

(5) Where a poll is to be taken, the Chairman of the meeting shall appoint such number of persons, as he deems necessary, to scrutinise the poll process and votes given on the poll and to report thereon to him in the manner as may be prescribed.

(6) Subject to the provisions of this section, the Chairman of the meeting shall have power to regulate the manner in which the poll shall be taken.

(7) The result of the poll shall be deemed to be the decision of the meeting on the resolution on which the poll was taken.

110. Postal ballot.—(1) Notwithstanding anything contained in this Act, a company—

(a) shall, in respect of such items of business as the Central Government may, by notification, declare to be transacted only by means of postal ballot; and

(b) may, in respect of any item of business, other than ordinary business and any business in respect of which directors or auditors have a right to be heard at any meeting, transact by means of postal ballot, in such manner as may be prescribed, instead of transacting such business at a general meeting:

¹[Provided that any item of business required to be transacted by means of postal ballot under clause (a), may be transacted at a general meeting by a company which is required to provide the facility to members to vote by electronic means under section 108, in the manner provided in that section.]

(2) If a resolution is assented to by the requisite majority of the shareholders by means of postal ballot, it shall be deemed to have been duly passed at a general meeting convened in that behalf.

111. Circulation of members' resolution.—(1) A company shall, on requisition in writing of such number of members, as required in section 100,—

(a) give notice to members of any resolution which may properly be moved and is intended to be moved at a meeting; and

(b) circulate to members any statement with respect to the matters referred to in proposed resolution or business to be dealt with at that meeting.

(2) A company shall not be bound under this section to give notice of any resolution or to circulate any statement unless—

(a) a copy of the requisition signed by the requisitionists (or two or more copies which, between them, contain the signatures of all the requisitionists) is deposited at the registered office of the company,—

(i) in the case of a requisition requiring notice of a resolution, not less than six weeks before the meeting;

(ii) in the case of any other requisition, not less than two weeks before the meeting; and

(b) there is deposited or tendered with the requisition, a sum reasonably sufficient to meet the company's expenses in giving effect thereto:

Provided that if, after a copy of a requisition requiring notice of a resolution has been deposited at the registered office of the company, an annual general meeting is called on a date within six weeks after the copy has been deposited, the copy, although not deposited within the time required by this sub-section, shall be deemed to have been properly deposited for the purposes thereof.

(3) The company shall not be bound to circulate any statement as required by clause (b) of sub-section (1), if on the application either of the company or of any other person who claims to be aggrieved, the Central Government, by order, declares that the rights conferred by this section are being abused to secure needless publicity for defamatory matter.

(4) An order made under sub-section (3) may also direct that the cost incurred by the company by virtue of this section shall be paid to the company by the requisitionists, notwithstanding that they are not parties to the application.

(5) If any default is made in complying with the provisions of this section, the company and every officer of the company who is in default shall be liable to a penalty of twenty-five thousand rupees.

112. Representation of President and Governors in meetings.—(1) The President of India or the Governor of a State, if he is a member of a company, may appoint such person as he thinks fit to act as his representative at any meeting of the company or at any meeting of any class of members of the company.

(2) A person appointed to act under sub-section (1) shall, for the purposes of this Act, be deemed to be a member of such a company and shall be entitled to exercise the same rights and powers, including the right to vote by proxy and postal ballot, as the President or, as the case may be, the Governor could exercise as a member of the company.

113. Representation of corporations at meeting of companies and of creditors.—(1) A body corporate, whether a company within the meaning of this Act or not, may,—

1. The Proviso ins. by Act 1 of 2018, s. 29 (w.e.f. 9-2-2018).

(a) if it is a member of a company within the meaning of this Act, by resolution of its Board of Directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of the company, or at any meeting of any class of members of the company;

(b) if it is a creditor, including a holder of debentures, of a company within the meaning of this Act, by resolution of its directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of any creditors of the company held in pursuance of this Act or of any rules made thereunder, or in pursuance of the provisions contained in any debenture or trust deed, as the case may be.

(2) A person authorised by resolution under sub-section (1) shall be entitled to exercise the same rights and powers, including the right to vote by proxy and by postal ballot, on behalf of the body corporate which he represents as that body could exercise if it were an individual member, creditor or holder of debentures of the company.

114. Ordinary and special resolutions.—(1) A resolution shall be an ordinary resolution if the notice required under this Act has been duly given and it is required to be passed by the votes cast, whether on a show of hands, or electronically or on a poll, as the case may be, in favour of the resolution, including the casting vote, if any, of the Chairman, by members who, being entitled so to do, vote in person, or where proxies are allowed, by proxy or by postal ballot, exceed the votes, if any, cast against the resolution by members, so entitled and voting.

(2) A resolution shall be a special resolution when—

(a) the intention to propose the resolution as a special resolution has been duly specified in the notice calling the general meeting or other intimation given to the members of the resolution;

(b) the notice required under this Act has been duly given; and

(c) the votes cast in favour of the resolution, whether on a show of hands, or electronically or on a poll, as the case may be, by members who, being entitled so to do, vote in person or by proxy or by postal ballot, are required to be not less than three times the number of the votes, if any, cast against the resolution by members so entitled and voting.

115. Resolutions requiring special notice.—Where, by any provision contained in this Act or in the articles of a company, special notice is required of any resolution, notice of the intention to move such resolution shall be given to the company by such number of members holding not less than one per cent. of total voting power or holding shares on which such aggregate sum not exceeding five lakh rupees, as may be prescribed, has been paid-up and the company shall give its members notice of the resolution in such manner as may be prescribed.

116. Resolutions passed at adjourned meeting.—Where a resolution is passed at an adjourned meeting of—

(a) a company; or

(b) the holders of any class of shares in a company; or

(c) the Board of Directors of a company,

the resolution shall, for all purposes, be treated as having been passed on the date on which it was in fact passed, and shall not be deemed to have been passed on any earlier date.

117. Resolutions and agreements to be filed.—(1) A copy of every resolution or any agreement, in respect of matters specified in sub-section (3) together with the explanatory statement under section 102, if any, annexed to the notice calling the meeting in which the resolution is proposed, shall be filed with the Registrar within thirty days of the passing or making thereof in such manner and with such fees as may be prescribed^{1***:}

Provided that the copy of every resolution which has the effect of altering the articles and the copy of every agreement referred to in sub-section (3) shall be embodied in or annexed to every copy of the articles issued after passing of the resolution or making of the agreement.

²[(2) If any company fails to file the resolution or the agreement under sub-section (1) before the expiry of the period specified therein, such company shall be liable to a penalty of ten thousand rupees and in case of continuing failure, with a further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of two lakh rupees and every officer of the company

1. The words and figures “within the time specified under section 403” omitted by Act 1 of 2018, s. 30 (w.e.f. 7-5-2018).

2. Subs. by Act 29 of 2020, s. 22, for sub-section (2) (w.e.f. 21-12-2020).

who is in default including liquidator of the company, if any, shall be liable to a penalty of ten thousand rupees and in case of continuing failure, with a further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of fifty thousand rupees.]

(3) The provisions of this section shall apply to—

(a) special resolutions;

(b) resolutions which have been agreed to by all the members of a company, but which, if not so agreed to, would not have been effective for their purpose unless they had been passed as special resolutions;

(c) any resolution of the Board of Directors of a company or agreement executed by a company, relating to the appointment, re-appointment or renewal of the appointment, or variation of the terms of appointment, of a managing director;

(d) resolutions or agreements which have been agreed to by any class of members but which, if not so agreed to, would not have been effective for their purpose unless they had been passed by a specified majority or otherwise in some particular manner; and all resolutions or agreements which effectively bind such class of members though not agreed to by all those members;

¹*

*

*

*

*

(f) resolutions requiring a company to be wound up voluntarily passed in pursuance of²[section 59 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016)];

(g) resolutions passed in pursuance of sub-section (3) of section 179:³***

⁴[Provided that no person shall be entitled under section 399 to inspect or obtain copies of such resolutions;⁵***]

⁶[Provided further that nothing contained in this clause shall apply in respect of a resolution passed to grant loans, or give guarantee or provide security in respect of loans under clause (f) of sub-section (3) of section 179 in the ordinary course of its business by—

(a) a banking company;

(b) any class of non-banking financial company registered under Chapter IIIB of the Reserve Bank of India Act, 1934 (2 of 1934), as may be prescribed in consultation with the Reserve Bank of India;

(c) any class of housing finance company registered under the National Housing Bank Act, 1987 (53 of 1987), as may be prescribed in consultation with the National Housing Bank; and]

(h) any other resolution or agreement as may be prescribed and placed in the public domain.

118. Minutes of proceedings of general meeting, meeting of Board of Directors and other meeting and resolutions passed by postal ballot.—(1) Every company shall cause minutes of the proceedings of every general meeting of any class of shareholders or creditors, and every resolution passed by postal ballot and every meeting of its Board of Directors or of every committee of the Board, to be prepared and signed in such manner as may be prescribed and kept within thirty days of the conclusion of every such meeting concerned, or passing of resolution by postal ballot in books kept for that purpose with their pages consecutively numbered.

(2) The minutes of each meeting shall contain a fair and correct summary of the proceedings thereat.

(3) All appointments made at any of the meetings aforesaid shall be included in the minutes of the meeting.

(4) In the case of a meeting of the Board of Directors or of a committee of the Board, the minutes shall also contain—

1. Clause (e) omitted by Act 1 of 2018, s. 30 (w.e.f. 7-5-2018).

2. Subs. by Act 31 of 2016, s. 255 and the Eleventh Schedule, for “section 304” (w.e.f. 15-11-2016).

3. The word “and” omitted by Act 21 of 2015, s. 9 (w.e.f. 29-5-2015).

4. Ins. by s. 9, *ibid.* (w.e.f. 29-5-2015).

5. The “and” omitted by Act 1 of 2018, s. 30 (w.e.f. 7-5-2018).

6. The proviso subs. by Act 29 of 2020, s. 22 (w.e.f. 22-1-2021).

(a) the names of the directors present at the meeting; and

(b) in the case of each resolution passed at the meeting, the names of the directors, if any, dissenting from, or not concurring with the resolution.

(5) There shall not be included in the minutes, any matter which, in the opinion of the Chairman of the meeting,—

(a) is or could reasonably be regarded as defamatory of any person; or

(b) is irrelevant or immaterial to the proceedings; or

(c) is detrimental to the interests of the company.

(6) The Chairman shall exercise absolute discretion in regard to the inclusion or non-inclusion of any matter in the minutes on the grounds specified in sub-section (5).

(7) The minutes kept in accordance with the provisions of this section shall be evidence of the proceedings recorded therein.

(8) Where the minutes have been kept in accordance with sub-section (1) then, until the contrary is proved, the meeting shall be deemed to have been duly called and held, and all proceedings thereat to have duly taken place, and the resolutions passed by postal ballot to have been duly passed and in particular, all appointments of directors, key managerial personnel, auditors or company secretary in practice, shall be deemed to be valid.

(9) No document purporting to be a report of the proceedings of any general meeting of a company shall be circulated or advertised at the expense of the company, unless it includes the matters required by this section to be contained in the minutes of the proceedings of such meeting.

(10) Every company shall observe secretarial standards with respect to general and Board meetings specified by the Institute of Company Secretaries of India constituted under section 3 of the Company Secretaries Act, 1980 (56 of 1980), and approved as such by the Central Government.

(11) If any default is made in complying with the provisions of this section in respect of any meeting, the company shall be liable to a penalty of twenty-five thousand rupees and every officer of the company who is in default shall be liable to a penalty of five thousand rupees.

(12) If a person is found guilty of tampering with the minutes of the proceedings of meeting, he shall be punishable with imprisonment for a term which may extend to two years and with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

119. Inspection of minute-books of general meeting.—(1) The books containing the minutes of the proceedings of any general meeting of a company or of a resolution passed by postal ballot, shall—

(a) be kept at the registered office of the company; and

(b) be open, during business hours, to the inspection by any member without charge, subject to such reasonable restrictions as the company may, by its articles or in general meeting, impose, so, however, that not less than two hours in each business day are allowed for inspection.

(2) Any member shall be entitled to be furnished, within seven working days after he has made a request in that behalf to the company, and on payment of such fees as may be prescribed, with a copy of any minutes referred to in sub-section (1).

(3) If any inspection under sub-section (1) is refused, or if any copy required under sub-section (2) is not furnished within the time specified therein, the company shall be liable to a penalty of twenty-five thousand rupees and every officer of the company who is in default shall be liable to a penalty of five thousand rupees for each such refusal or default, as the case may be.

(4) In the case of any such refusal or default, the Tribunal may, without prejudice to any action being taken under sub-section (3), by order, direct an immediate inspection of the minute-books or direct that the copy required shall forthwith be sent to the person requiring it.

120. Maintenance and inspection of documents in electronic form.—Without prejudice to any other provisions of this Act, any document, record, register, minutes, etc.,—

(a) required to be kept by a company; or

(b) allowed to be inspected or copies to be given to any person by a company under this Act, may be kept or inspected or copies given, as the case may be, in electronic form in such form and manner as may be prescribed.

121. Report on annual general meeting.—(1) Every listed public company shall prepare in the prescribed manner a report on each annual general meeting including the confirmation to the effect that the meeting was convened, held and conducted as per the provisions of this Act and the rules made thereunder.

(2) The company shall file with the Registrar a copy of the report referred to in sub-section (1) within thirty days of the conclusion of the annual general meeting with such fees as may be prescribed, or with such additional fees as may be prescribed.^{1***}.

²[(3) If the company fails to file the report under sub-section (2) before the expiry of the period specified therein, such company shall be liable to a penalty of one lakh rupees and in case of continuing failure, with a further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees and every officer of the company who is in default shall be liable to a penalty which shall not be less than twenty-five thousand rupees and in case of continuing failure, with a further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of one lakh rupees.]

122. Applicability of this Chapter to One Person Company.—(1) The provisions of section 98 and sections 100 to 111 (both inclusive) shall not apply to a One Person Company.

(2) The ordinary businesses as mentioned under clause (a) of sub-section (2) of section 102 which a company, other than a One Person Company, is required to transact at its annual general meeting, shall be transacted, in case of One Person Company, as provided in sub-section (3).

(3) For the purposes of section 114, any business which is required to be transacted at an annual general meeting or other general meeting of a company by means of an ordinary or special resolution, it shall be sufficient if, in case of One Person Company, the resolution is communicated by the member to the company and entered in the minutes-book required to be maintained under section 118 and signed and dated by the member and such date shall be deemed to be the date of the meeting for all the purposes under this Act.

(4) Notwithstanding anything in this Act, where there is only one director on the Board of Director of a One Person Company, any business which is required to be transacted at the meeting of the Board of Directors of a company, it shall be sufficient if, in case of such One Person Company, the resolution by such director is entered in the minutes-book required to be maintained under section 118 and signed and dated by such director and such date shall be deemed to be the date of the meeting of the Board of Directors for all the purposes under this Act.

CHAPTER VIII

DECLARATION AND PAYMENT OF DIVIDEND

123. Declaration of dividend.—(1) No dividend shall be declared or paid by a company for any financial year except—

(a) out of the profits of the company for that year arrived at after providing for depreciation in accordance with the provisions of sub-section (2), or out of the profits of the company for any previous financial year or years arrived at after providing for depreciation in accordance with the provisions of that sub-section and remaining undistributed, or out of³[both:]

1. The words and figures “within the time as specified, under section 403” omitted by Act 1 of 2018, s. 31 (w.e.f. 7-5-2018).

2. Subs. by Act 22 of 2019, s. 19, for sub-section (3) (w.e.f. 2-11-2018).

3. Subs. by Act 1 of 2018, s. 32, for “both; or” (w.e.f. 9-2-2018).

¹[Provided that in computing profits any amount representing unrealised gains, notional gains or revaluation of assets and any change in carrying amount of an asset or of a liability on measurement of the asset or the liability at fair value shall be excluded; or]

(b) out of money provided by the Central Government or a State Government for the payment of dividend by the company in pursuance of a guarantee given by that Government:

Provided that a company may, before the declaration of any dividend in any financial year, transfer such percentage of its profits for that financial year as it may consider appropriate to the reserves of the company:

Provided further that where, owing to inadequacy or absence of profits in any financial year, any company proposes to declare dividend out of the accumulated profits earned by it in previous years and ²[transferred by the company to the free reserves], such declaration of dividend shall not be made except in accordance with such rules as may be prescribed in this behalf:

Provided also that no dividend shall be declared or paid by a company from its reserves other than free reserves:

³[Provided also that no company shall declare dividend unless carried over previous losses and depreciation not provided in previous year or years are set off against profit of the company for the current year.]

(2) For the purposes of clause (a) of sub-section (1), depreciation shall be provided in accordance with the provisions of Schedule II.

⁴[(3) The Board of Directors of a company may declare interim dividend during any financial year or at any time during the period from closure of financial year till holding of the annual general meeting out of the surplus in the profit and loss account or out of profits of the financial year for which such interim dividend is sought to be declared or out of profits generated in the financial year till the quarter preceding the date of declaration of the interim dividend:

Provided that in case the company has incurred loss during the current financial year up to the end of the quarter immediately preceding the date of declaration of interim dividend, such interim dividend shall not be declared at a rate higher than the average dividends declared by the company during immediately preceding three financial years.]

(4) The amount of the dividend, including interim dividend, shall be deposited in a scheduled bank in a separate account within five days from the date of declaration of such dividend.

(5) No dividend shall be paid by a company in respect of any share therein except to the registered shareholder of such share or to his order or to his banker and shall not be payable except in cash:

Provided that nothing in this sub-section shall be deemed to prohibit the capitalisation of profits or reserves of a company for the purpose of issuing fully paid-up bonus shares or paying up any amount for the time being unpaid on any shares held by the members of the company:

Provided further that any dividend payable in cash may be paid by cheque or warrant or in any electronic mode to the shareholder entitled to the payment of the dividend.

(6) A company which fails to comply with the provisions of sections 73 and 74 shall not, so long as such failure continues, declare any dividend on its equity shares.

124. Unpaid Dividend Account.—(1) Where a dividend has been declared by a company but has not been paid or claimed within thirty days from the date of the declaration to any shareholder entitled to the payment of the dividend, the company shall, within seven days from the date of expiry of the said period of thirty days, transfer the total amount of dividend which remains unpaid or unclaimed to a special account

1. The proviso ins. by Act 1 of 2018, s. 32 (w.e.f. 9-2-2018).

2. Subs. by s. 32, *ibid.*, for “transferred by the company to the reserves” (w.e.f. 9-2-2018).

3. The Proviso ins. by Act 21 of 2015, s. 10 (w.e.f. 29-5-2015).

4. Subs. by Act 1 of 2018, s. 32, for sub-section (3) (w.e.f. 9-2-2018).

to be opened by the company in that behalf in any scheduled bank to be called the Unpaid Dividend Account.

(2) The company shall, within a period of ninety days of making any transfer of an amount under sub-section (1) to the Unpaid Dividend Account, prepare a statement containing the names, their last known addresses and the unpaid dividend to be paid to each person and place it on the website of the company, if any, and also on any other website approved by the Central Government for this purpose, in such form, manner and other particulars as may be prescribed.

(3) If any default is made in transferring the total amount referred to in sub-section (1) or any part thereof to the Unpaid Dividend Account of the company, it shall pay, from the date of such default, interest on so much of the amount as has not been transferred to the said account, at the rate of twelve per cent. per annum and the interest accruing on such amount shall ensure to the benefit of the members of the company in proportion to the amount remaining unpaid to them.

(4) Any person claiming to be entitled to any money transferred under sub-section (1) to the Unpaid Dividend Account of the company may apply to the company for payment of the money claimed.

(5) Any money transferred to the Unpaid Dividend Account of a company in pursuance of this section which remains unpaid or unclaimed for a period of seven years from the date of such transfer shall be transferred by the company along with interest accrued, if any, thereon to the Fund established under sub-section (1) of section 125 and the company shall send a statement in the prescribed form of the details of such transfer to the authority which administers the said Fund and that authority shall issue a receipt to the company as evidence of such transfer.

(6) All shares in respect of which ¹[dividend has not been paid or claimed for seven consecutive years or more shall be] transferred by the company in the name of Investor Education and Protection Fund along with a statement containing such details as may be prescribed:

Provided that any claimant of shares transferred above shall be entitled to claim the transfer of shares from Investor Education and Protection Fund in accordance with such procedure and on submission of such documents as may be prescribed.

²[Explanation.— For the removal of doubts, it is hereby clarified that in case any dividend is paid or claimed for any year during the said period of seven consecutive years, the share shall not be transferred to Investor Education and Protection Fund.]

³[(7) If a company fails to comply with any of the requirements of this section, such company shall be liable to a penalty of one lakh rupees and in case of continuing failure, with a further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of ten lakh rupees and every officer of the company who is in default shall be liable to a penalty of twenty-five thousand rupees and in case of continuing failure, with a further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of two lakh rupees.]

125. Investor Education and Protection Fund.—(1) The Central Government shall establish a Fund to be called the Investor Education and Protection Fund (herein referred to as the Fund).

(2) There shall be credited to the Fund—

(a) the amount given by the Central Government by way of grants after due appropriation made by Parliament by law in this behalf for being utilised for the purposes of the Fund;

(b) donations given to the Fund by the Central Government, State Governments, companies or any other institution for the purposes of the Fund;

(c) the amount in the Unpaid Dividend Account of companies transferred to the Fund under sub-section (5) of section 124;

(d) the amount in the general revenue account of the Central Government which had been transferred to that account under sub-section (5) of section 205A of the Companies Act, 1956 (1 of 1956), as it stood immediately before the commencement of the Companies (Amendment) Act, 1999 (21 of 1999), and remaining unpaid or unclaimed on the commencement of this Act;

1. Subs. by Act 21 of 2015, s. 11, for “unpaid or unclaimed dividend has been transferred under sub-section (5) shall also be” (w.e.f. 29-5-2015).

2. 2. The *Explanation* ins. by s. 11, *ibid.* (w.e.f. 29-5-2015).

3. Subs. by *vide* Notification No. S.O. 1303(E), for sub-section (7) (w.e.f. 24-3-2021).

(e) the amount lying in the Investor Education and Protection Fund under section 205C of the Companies Act, 1956 (1 of 1956);

(f) the interest or other income received out of investments made from the Fund;

(g) the amount received under sub-section (4) of section 38;

(h) the application money received by companies for allotment of any securities and due for refund;

(i) matured deposits with companies other than banking companies;

(j) matured debentures with companies;

(k) interest accrued on the amounts referred to in clauses (h) to (j);

(l) sale proceeds of fractional shares arising out of issuance of bonus shares, merger and amalgamation for seven or more years;

(m) redemption amount of preference shares remaining unpaid or unclaimed for seven or more years; and

(n) such other amount as may be prescribed:

Provided that no such amount referred to in clauses (h) to (j) shall form part of the Fund unless such amount has remained unclaimed and unpaid for a period of seven years from the date it became due for payment.

(3) The Fund shall be utilised for—

(a) the refund in respect of unclaimed dividends, matured deposits, matured debentures, the application money due for refund and interest thereon;

(b) promotion of investors' education, awareness and protection;

(c) distribution of any disgorged amount among eligible and identifiable applicants for shares or debentures, shareholders, debenture-holders or depositors who have suffered losses due to wrong actions by any person, in accordance with the orders made by the Court which had ordered disgorgement;

(d) reimbursement of legal expenses incurred in pursuing class action suits under sections 37 and 245 by members, debenture-holders or depositors as may be sanctioned by the Tribunal; and

(e) any other purpose incidental thereto,

in accordance with such rules as may be prescribed:

Provided that the person whose amounts referred to in clauses (a) to (d) of sub-section (2) of section 205C transferred to Investor Education and Protection Fund, after the expiry of the period of seven years as per provisions of the Companies Act, 1956 (1 of 1956), shall be entitled to get refund out of the Fund in respect of such claims in accordance with rules made under this section.

Explanation.—The disgorged amount refers to the amount received through disgorgement or disposal of securities.

(4) Any person claiming to be entitled to the amount referred in sub-section (2) may apply to the authority constituted under sub-section (5) for the payment of the money claimed.

(5) The Central Government shall constitute, by notification, an authority for administration of the Fund consisting of a chairperson and such other members, not exceeding seven and a chief executive officer, as the Central Government may appoint.

(6) The manner of administration of the Fund, appointment of chairperson, members and chief executive officer, holding of meetings of the authority shall be in accordance with such rules as may be prescribed.

(7) The Central Government may provide to the authority such offices, officers, employees and other resources in accordance with such rules as may be prescribed.

(8) The authority shall administer the Fund and maintain separate accounts and other relevant records in relation to the Fund in such form as may be prescribed after consultation with the Comptroller and Auditor-General of India.

(9) It shall be competent for the authority constituted under sub-section (5) to spend money out of the Fund for carrying out the objects specified in sub-section (3).

(10) The accounts of the Fund shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and such audited accounts together with the audit report thereon shall be forwarded annually by the authority to the Central Government.

(11) The authority shall prepare in such form and at such time for each financial year as may be prescribed its annual report giving a full account of its activities during the financial year and forward a copy thereof to the Central Government and the Central Government shall cause the annual report and the audit report given by the Comptroller and Auditor-General of India to be laid before each House of Parliament.

126. Right to dividend, rights shares and bonus shares to be held in abeyance pending registration of transfer of shares.—Where any instrument of transfer of shares has been delivered to any company for registration and the transfer of such shares has not been registered by the company, it shall, notwithstanding anything contained in any other provision of this Act,—

(a) transfer the dividend in relation to such shares to the Unpaid Dividend Account referred to in section 124 unless the company is authorised by the registered holder of such shares in writing to pay such dividend to the transferee specified in such instrument of transfer; and

(b) keep in abeyance in relation to such shares, any offer of rights shares under clause (a) of sub-section (1) of section 62 and any issue of fully paid-up bonus shares in pursuance of first proviso to sub-section (5) of section 123.

127. Punishment for failure to distribute dividends.—Where a dividend has been declared by a company but has not been paid or the warrant in respect thereof has not been posted within thirty days from the date of declaration to any shareholder entitled to the payment of the dividend, every director of the company shall, if he is knowingly a party to the default, be punishable with imprisonment which may extend to two years and with fine which shall not be less than one thousand rupees for every day during which such default continues and the company shall be liable to pay simple interest at the rate of eighteen per cent. per annum during the period for which such default continues:

Provided that no offence under this section shall be deemed to have been committed:—

(a) where the dividend could not be paid by reason of the operation of any law;

(b) where a shareholder has given directions to the company regarding the payment of the dividend and those directions cannot be complied with and the same has been communicated to him;

(c) where there is a dispute regarding the right to receive the dividend;

(d) where the dividend has been lawfully adjusted by the company against any sum due to it from the shareholder; or

(e) where, for any other reason, the failure to pay the dividend or to post the warrant within the period under this section was not due to any default on the part of the company.

CHAPTER IX

ACCOUNTS OF COMPANIES

128. Books of account, etc., to be kept by company.—(1) Every company shall prepare and keep at its registered office books of account and other relevant books and papers and financial statement for every financial year which give a true and fair view of the state of the affairs of the company, including that of its branch office or offices, if any, and explain the transactions effected both at the registered office and its branches and such books shall be kept on accrual basis and according to the double entry system of accounting:

Provided that all or any of the books of account aforesaid and other relevant papers may be kept at such other place in India as the Board of Directors may decide and where such a decision is taken, the company shall, within seven days thereof, file with the Registrar a notice in writing giving the full address of that other place:

Provided further that the company may keep such books of account or other relevant papers in electronic mode in such manner as may be prescribed.

(2) Where a company has a branch office in India or outside India, it shall be deemed to have complied with the provisions of sub-section (1), if proper books of account relating to the transactions effected at the branch office are kept at that office and proper summarized returns periodically are sent by the branch office to the company at its registered office or the other place referred to in sub-section (1).

(3) The books of account and other books and papers maintained by the company within India shall be open for inspection at the registered office of the company or at such other place in India by any director during business hours, and in the case of financial information, if any, maintained outside the country, copies of such financial information shall be maintained and produced for inspection by any director subject to such conditions as may be prescribed:

Provided that the inspection in respect of any subsidiary of the company shall be done only by the person authorised in this behalf by a resolution of the Board of Directors.

(4) Where an inspection is made under sub-section (3), the officers and other employees of the company shall give to the person making such inspection all assistance in connection with the inspection which the company may reasonably be expected to give.

(5) The books of account of every company relating to a period of not less than eight financial years immediately preceding a financial year, or where the company had been in existence for a period less than eight years, in respect of all the preceding years together with the vouchers relevant to any entry in such books of account shall be kept in good order:

Provided that where an investigation has been ordered in respect of the company under Chapter XIV, the Central Government may direct that the books of account may be kept for such longer period as it may deem fit.

(6) If the managing director, the whole-time director in charge of finance, the Chief Financial Officer or any other person of a company charged by the Board with the duty of complying with the provisions of this section, contravenes such provisions, such managing director, whole-time director in charge of finance, Chief Financial Officer or such other person of the company shall be punishable^{1***} with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees^{2***}.

129. Financial statement.—(1) The financial statements shall give a true and fair view of the state of affairs of the company or companies, comply with the accounting standards notified under section 133 and shall be in the form or forms as may be provided for different class or classes of companies in Schedule III:

Provided that the items contained in such financial statements shall be in accordance with the accounting standards:

Provided further that nothing contained in this sub-section shall apply to any insurance or banking company or any company engaged in the generation or supply of electricity, or to any other class of company for which a form of financial statement has been specified in or under the Act governing such class of company:

Provided also that the financial statements shall not be treated as not disclosing a true and fair view of the state of affairs of the company, merely by reason of the fact that they do not disclose—

1. The words “with imprisonment for a term which may extend to one year or” omitted by Act 29 of 2020, s. 24 (w.e.f. 21-12-2020).

2. The words “or with both” omitted by s. 24, *ibid.* (w.e.f. 21-12-2020).

(a) in the case of an insurance company, any matters which are not required to be disclosed by the Insurance Act, 1938 (4 of 1938), or the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);

(b) in the case of a banking company, any matters which are not required to be disclosed by the Banking Regulation Act, 1949 (10 of 1949);

(c) in the case of a company engaged in the generation or supply of electricity, any matters which are not required to be disclosed by the Electricity Act, 2003 (36 of 2003);

(d) in the case of a company governed by any other law for the time being in force, any matters which are not required to be disclosed by that law.

(2) At every annual general meeting of a company, the Board of Directors of the company shall lay before such meeting financial statements for the financial year.

¹[(3) Where a company has one or more subsidiaries or associate companies, it shall, in addition to financial statements provided under sub-section (2), prepare a consolidated financial statement of the company and of all the subsidiaries and associate companies in the same form and manner as that of its own and in accordance with applicable accounting standards, which shall also be laid before the annual general meeting of the company along with the laying of its financial statement under sub-section (2):

Provided that the company shall also attach along with its financial statement, a separate statement containing the salient features of the financial statement of its subsidiary or subsidiaries and associate company or companies in such form as may be prescribed:

Provided further that the Central Government may provide for the consolidation of accounts of companies in such manner as may be prescribed.]

(4) The provisions of this Act applicable to the preparation, adoption and audit of the financial statements of a holding company shall, *mutatis mutandis*, apply to the consolidated financial statements referred to in sub-section (3).

(5) Without prejudice to sub-section (1), where the financial statements of a company do not comply with the accounting standards referred to in sub-section (1), the company shall disclose in its financial statements, the deviation from the accounting standards, the reasons for such deviation and the financial effects, if any, arising out of such deviation.

(6) The Central Government may, on its own or on an application by a class or classes of companies, by notification, exempt any class or classes of companies from complying with any of the requirements of this section or the rules made thereunder, if it is considered necessary to grant such exemption in the public interest and any such exemption may be granted either unconditionally or subject to such conditions as may be specified in the notification.

(7) If a company contravenes the provisions of this section, the managing director, the whole-time director in charge of finance, the Chief Financial Officer or any other person charged by the Board with the duty of complying with the requirements of this section and in the absence of any of the officers mentioned above, all the directors shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both.

Explanation.—For the purposes of this section, except where the context otherwise requires, any reference to the financial statement shall include any notes annexed to or forming part of such financial statement, giving information required to be given and allowed to be given in the form of such notes under this Act.

²[129A. Periodical financial results.]—The Central Government may, require such class or classes of unlisted companies, as may be prescribed,—

1. Subs. by Act 1 of 2018, s. 33, for sub-section (3) (w.e.f. 7-5-2018).
2. Ins. by Act 29 of 2020, s. 25 (w.e.f. 22-1-2021).

(a) to prepare the financial results of the company on such periodical basis and in such form as may be prescribed;

(b) to obtain approval of the Board of Directors and complete audit or limited review of such periodical financial results in such manner as may be prescribed; and

(c) file a copy with the Registrar within a period of thirty days of completion of the relevant period with such fees as may be prescribed.]

130. Re-opening of accounts on court's or Tribunal's orders.—(1) A company shall not re-open its books of account and not recast its financial statements, unless an application in this regard is made by the Central Government, the Income-tax authorities, the Securities and Exchange Board, any other statutory regulatory body or authority or any person concerned and an order is made by a court of competent jurisdiction or the Tribunal to the effect that—

(i) the relevant earlier accounts were prepared in a fraudulent manner; or

(ii) the affairs of the company were mismanaged during the relevant period, casting a doubt on the reliability of financial statements:

Provided that the court or the Tribunal, as the case may be, shall give notice to the Central Government, the Income-tax authorities, the Securities and Exchange Board or any other statutory regulatory body or authority concerned¹[or any other person concerned] and shall take into consideration the representations, if any, made by that Government or the authorities, Securities and Exchange Board or the body or authority concerned¹[or the other person concerned] before passing any order under this section.

(2) Without prejudice to the provisions contained in this Act the accounts so revised or re-cast under sub-section (1) shall be final.

²[(3) No order shall be made under sub-section (1) in respect of re-opening of books of account relating to a period earlier than eight financial years immediately preceding the current financial year:

Provided that where a direction has been issued by the Central Government under the proviso to sub-section (5) of section 128 for keeping of books of account for a period longer than eight years, the books of account may be ordered to be re-opened within such longer period.]

131. Voluntary revision of financial statements or Board's report.—(1) If it appears to the directors of a company that—

(a) the financial statement of the company; or

(b) the report of the Board,

do not comply with the provisions of section 129 or section 134 they may prepare revised financial statement or a revised report in respect of any of the three preceding financial years after obtaining approval of the Tribunal on an application made by the company in such form and manner as may be prescribed and a copy of the order passed by the Tribunal shall be filed with the Registrar:

Provided that the Tribunal shall give notice to the Central Government and the Income-tax authorities and shall take into consideration the representations, if any, made by that Government or the authorities before passing any order under this section:

Provided further that such revised financial statement or report shall not be prepared or filed more than once in a financial year:

Provided also that the detailed reasons for revision of such financial statement or report shall also be disclosed in the Board's report in the relevant financial year in which such revision is being made.

1. Ins. by Act 1 of 2018, s. 34 (w.e.f. 9-2-2018).

2. Ins. by s. 34, *ibid.* (w.e.f. 9-2-2018).

(2) Where copies of the previous financial statement or report have been sent out to members or delivered to the Registrar or laid before the company in general meeting, the revisions must be confined to—

(a) the correction in respect of which the previous financial statement or report do not comply with the provisions of section 129 or section 134; and

(b) the making of any necessary consequential alteration.

(3) The Central Government may make rules as to the application of the provisions of this Act in relation to revised financial statement or a revised director's report and such rules may, in particular—

(a) make different provisions according to which the previous financial statement or report are replaced or are supplemented by a document indicating the corrections to be made;

(b) make provisions with respect to the functions of the company's auditor in relation to the revised financial statement or report;

(c) require the directors to take such steps as may be prescribed.

132. Constitution of National Financial Reporting Authority.—(1) The Central Government may, by notification, constitute a National Financial Reporting Authority to provide for matters relating to accounting and auditing standards under this Act.

¹[(IA) The National Financial Reporting Authority shall perform its functions through such divisions as may be prescribed.]

(2) Notwithstanding anything contained in any other law for the time being in force, the National Financial Reporting Authority shall—

(a) make recommendations to the Central Government on the formulation and laying down of accounting and auditing policies and standards for adoption by companies or class of companies or their auditors, as the case may be;

(b) monitor and enforce the compliance with accounting standards and auditing standards in such manner as may be prescribed;

(c) oversee the quality of service of the professions associated with ensuring compliance with such standards, and suggest measures required for improvement in quality of service and such other related matters as may be prescribed; and

(d) perform such other functions relating to clauses (a), (b) and (c) as may be prescribed.

(3) The National Financial Reporting Authority shall consist of a chairperson, who shall be a person of eminence and having expertise in accountancy, auditing, finance or law to be appointed by the Central Government and such other members not exceeding fifteen consisting of part-time and full-time members as may be prescribed:

Provided that the terms and conditions and the manner of appointment of the chairperson and members shall be such as may be prescribed:

Provided further that the chairperson and members shall make a declaration to the Central Government in the prescribed form regarding no conflict of interest or lack of independence in respect of his or their appointment:

Provided also that the chairperson and members, who are in full-time employment with National Financial Reporting Authority shall not be associated with any audit firm (including related consultancy firms) during the course of their appointment and two years after ceasing to hold such appointment.

¹[(3A) Each division of the National Financial Reporting Authority shall be presided over by the Chairperson or a full-time Member authorized by the Chairperson.

1. Ins. by Act 22 of 2019, s. 20 (w.e.f. 15-8-2019).

(3B) There shall be an executive body of the National Financial Reporting Authority consisting of the Chairperson and full-time Members of such Authority for efficient discharge of its functions under sub-section (2) [other than clause (a) and sub-section (4).]

(4) Notwithstanding anything contained in any other law for the time being in force, the National Financial Reporting Authority shall—

(a) have the power to investigate, either *suo motu* or on a reference made to it by the Central Government, for such class of bodies corporate or persons, in such manners may be prescribed into the matters of professional or other misconduct committed by any member or firm of chartered accountants, registered under the Chartered Accountants Act, 1949 (38 of 1949);

Provided that no other institute or body shall initiate or continue any proceedings in such matters of misconduct where the National Financial Reporting Authority has initiated an investigation under this section;

(b) have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:—

(i) discovery and production of books of account and other documents, at such place and at such time as may be specified by the National Financial Reporting Authority;

(ii) summoning and enforcing the attendance of persons and examining them on oath;

(iii) inspection of any books, registers and other documents of any person referred to in clause (b) at any place;

(iv) issuing commissions for examination of witnesses or documents;

(c) where professional or other misconduct is proved, have the power to make order for—

(A) imposing penalty of—

(I) not less than one lakh rupees, but which may extend to five times of the fees received, in case of individuals; and

(II) not less than ¹[five lakh rupees], but which may extend to ten times of the fees received, in case of firms;

²[(B) debarring the member or the firm from—

I. being appointed as an auditor or internal auditor or undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate; or

II. performing any valuation as provided under section 247,

for a minimum period of six months or such higher period not exceeding ten years as may be determined by the National Financial Reporting Authority.]

Explanation.—For the purposes of this sub-section, the expression “professional or other misconduct” shall have the same meaning assigned to it under section 22 of the Chartered Accountants Act, 1949 (38 of 1949).

(5) Any person aggrieved by any order of the National Financial Reporting Authority issued under clause (c) of sub-section (4), may prefer an appeal before ³[the Appellate Tribunal in such manner and on payment of such fee as may be prescribed].

4*

*

*

*

*

(10) The National Financial Reporting Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings in such manner as may be prescribed.

1. Subs. by Act 1 of 2018, s. 35, for “ten lakh rupees” (w.e.f. 9-2-2018).

2. Subs. by Act 22 of 2019, s. 20, for sub-clause (b) (w.e.f. 15-8-2019).

3. Subs. by s. 35, *ibid.*, for “the Appellate Authority constituted under sub-section (6) in such manner as may be prescribed” (w.e.f. 9-2-2018).

4. Sub-sections (6), (7), (8) and (9) omitted by s. 35, *ibid.* (w.e.f. 9-2-2018).

(11) The Central Government may appoint a secretary and such other employees as it may consider necessary for the efficient performance of functions by the National Financial Reporting Authority under this Act and the terms and conditions of service of the secretary and employees shall be such as may be prescribed.

(12) The head office of the National Financial Reporting Authority shall be at New Delhi and the National Financial Reporting Authority may, meet at such other places in India as it deems fit.

(13) The National Financial Reporting Authority shall cause to be maintained such books of account and other books in relation to its accounts in such form and in such manner as the Central Government may, in consultation with the Comptroller and Auditor-General of India prescribe.

(14) The accounts of the National Financial Reporting Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and such accounts as certified by the Comptroller and Auditor-General of India together with the audit report thereon shall be forwarded annually to the Central Government by the National Financial Reporting Authority.

(15) The National Financial Reporting Authority shall prepare in such form and at such time for each financial year as may be prescribed its annual report giving a full account of its activities during the financial year and forward a copy thereof to the Central Government and the Central Government shall cause the annual report and the audit report given by the Comptroller and Auditor-General of India to be laid before each House of Parliament.

133. Central Government to prescribe accounting standards.—The Central Government may prescribe the standards of accounting or any addendum thereto, as recommended by the Institute of Chartered Accountants of India, constituted under section 3 of the Chartered Accountants Act, 1949 (38 of 1949), in consultation with and after examination of the recommendations made by the National Financial Reporting Authority:

¹[Provided that until the National Financial Reporting Authority is constituted under section 132 of the Companies Act, 2013 (18 of 2013), the Central Government may prescribe the standards of accounting or any addendum thereto, as recommended by the Institute of Chartered Accountants of India, constituted under section 3 of the Chartered Accountants Act, 1949 (38 of 1949), in consultation with and after examination of the recommendations made by National Advisory Committee on Accounting Standards constituted under section 210A of the Companies Act, 1956 (1 of 1956).]

134. Financial statement, Board's report, etc.—²[(1) The financial statement, including consolidated financial statement, if any, shall be approved by the Board of Directors before they are signed on behalf of the Board by the chairperson of the company where he is authorised by the Board or by two directors out of which one shall be managing director, if any, and the Chief Executive Officer, the Chief Financial Officer and the company secretary of the company, wherever they are appointed, or in the case of One Person Company, only by one director, for submission to the auditor for his report thereon.]

(2) The auditors' report shall be attached to every financial statement.

(3) There shall be attached to statements laid before a company in general meeting, a report by its Board of Directors, which shall include—

³[(a) the web address, if any, where annual return referred to in sub-section (3) of section 92 has been placed;]

(b) number of meetings of the Board;

(c) Directors' Responsibility Statement;

⁴[(ca) details in respect of frauds reported by auditors under sub-section (12) of section 143 other than those which are reportable to the Central Government;]

(d) a statement on declaration given by independent directors under sub-section (6) of section 149;

(e) in case of a company covered under sub-section (1) of section 178, company's policy on directors' appointment and remuneration including criteria for determining qualifications, positive attributes, independence of a director and other matters provided under sub-section (3) of section 178;

1. Ins. by notification No. S.O. 1227(E), dated 29th March, 2016 (w.e.f 1-4-2015).

2. Subs. by Act 1 of 2018, s. 36, sub-section (1) (w.e.f. 31-7-2018).

3. Subs. by s. 36, *ibid.*, for clause (a) (w.e.f. 31-7-2018).

4. Ins. by Act 21 of 2015, s. 12 (w.e.f. 29-5-2015).

(f) explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made—

(i) by the auditor in his report; and

(ii) by the company secretary in practice in his secretarial audit report;

(g) particulars of loans, guarantees or investments under section 186;

(h) particulars of contracts or arrangements with related parties referred to in sub-section (I) of section 188 in the prescribed form;

(i) the state of the company's affairs;

(j) the amounts, if any, which it proposes to carry to any reserves;

(k) the amount, if any, which it recommends should be paid by way of dividend;

(l) material changes and commitments, if any, affecting the financial position of the company which have occurred between the end of the financial year of the company to which the financial statements relate and the date of the report;

(m) the conservation of energy, technology absorption, foreign exchange earnings and outgo, in such manner as may be prescribed;

(n) a statement indicating development and implementation of a risk management policy for the company including identification therein of elements of risk, if any, which in the opinion of the Board may threaten the existence of the company;

(o) the details about the policy developed and implemented by the company incorporate social responsibility initiatives taken during the year;

(p) in case of a listed company and every other public company having such paid-up share capital as may be prescribed, a statement indicating the manner in which formal ¹[annual evaluation of the performance of the Board, its Committees and of individual directors has been made];

(q) such other matters as may be prescribed:

²[Provided that where disclosures referred to in this sub-section have been included in the financial statements, such disclosures shall be referred to instead of being repeated in the Board's report:

Provided further that where the policy referred to in clause (e) or clause (o) is made available on company's website, if any, it shall be sufficient compliance of the requirements under such clauses if the salient features of the policy and any change therein are specified in brief in the Board's report and the web-address is indicated therein at which the complete policy is available.]

³[(3A) The Central Government may prescribe an abridged Board's report, for the purpose of compliance with this section by One Person Company or small company.]

(4) The report of the Board of Directors to be attached to the financial statement under this section shall, in case of a One Person Company, mean a report containing explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made by the auditor in his report.

(5) The Directors' Responsibility Statement referred to in clause (c) of sub-section (3) shall state that—

(a) in the preparation of the annual accounts, the applicable accounting standards had been followed along with proper explanation relating to material departures;

(b) the directors had selected such accounting policies and applied them consistently and made judgments and estimates that are reasonable and prudent so as to give a true and fair view of the state of affairs of the company at the end of the financial year and of the profit and loss of the company for that period;

(c) the directors had taken proper and sufficient care for the maintenance of adequate accounting records in accordance with the provisions of this Act for safeguarding the assets of the company and for preventing and detecting fraud another irregularities;

(d) the directors had prepared the annual accounts on a going concern basis; and

(e) the directors, in the case of a listed company, had laid down internal financial controls to be followed by the company and that such internal financial controls are adequate and were operating effectively.

Explanation.—For the purposes of this clause, the term “internal financial controls” means the policies and procedures adopted by the company for ensuring the orderly and efficient conduct of its

1. Subs. by Act 1 of 2018, s. 36, for “annual evaluation has been made by the Board of its own performance and that of its committees and individual directors” (w.e.f. 31-7-2018).

2. The provisos ins. by s. 36, *ibid.*, (w.e.f. 31-7-2018).

3. Sub-section (3A) ins. by s. 36, *ibid.*, (w.e.f. 31-7-2018).

business, including adherence to company's policies, the safeguarding of its assets, the prevention and detection of frauds and errors, the accuracy and completeness of the accounting records, and the timely preparation of reliable financial information;

(f) the directors had devised proper systems to ensure compliance with the provisions of all applicable laws and that such systems were adequate and operating effectively.

(6) The Board's report and any annexures thereto under sub-section (3) shall be signed by its chairperson of the company if he is authorised by the Board and where he is not so authorised, shall be signed by at least two directors, one of whom shall be a managing director, or by the director where there is one director.

(7) A signed copy of every financial statement, including consolidated financial statement, if any, shall be issued, circulated or published along with a copy each of—

(a) any notes annexed to or forming part of such financial statement;

(b) the auditor's report; and

(c) the Board's report referred to in sub-section (3).

¹[(8) If a company is in default in complying with the provisions of this section, the company shall be liable to a penalty of three lakh rupees and every officer of the company who is in default shall be liable to a penalty of fifty thousand rupees.]

135. Corporate Social Responsibility.—(1) Every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during ²[the immediately preceding financial year] shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director:

³[Provided that where a company is not required to appoint an independent director under sub-section (4) of section 149, it shall have in its Corporate Social Responsibility Committee two or more directors.]

(2) The Board's report under sub-section (3) of section 134 shall disclose the composition of the Corporate Social Responsibility Committee.

(3) The Corporate Social Responsibility Committee shall,—

(a) formulate and recommend to the Board, a Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the company ⁴[in areas or subject, specified in Schedule VII];

(b) recommend the amount of expenditure to be incurred on the activities referred to in clause (a); and

(c) monitor the Corporate Social Responsibility Policy of the company from time to time.

(4) The Board of every company referred to in sub-section (1) shall,—

(a) after taking into account the recommendations made by the Corporate Social Responsibility Committee, approve the Corporate Social Responsibility Policy for the company and disclose contents of such Policy in its report and also place it on the company's website, if any, in such manner as may be prescribed; and

(b) ensure that the activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company.

(5) The Board of every company referred to in sub-section (1), shall ensure that the company spends, in every financial year, at least two per cent. of the average net profits of the company made during the three immediately preceding financial years, ⁵[or where the company has not completed the period of three financial years since its incorporation, during such immediately preceding financial years,] in pursuance of its Corporate Social Responsibility Policy:

Provided that the company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for Corporate Social Responsibility activities:

Provided further that if the company fails to spend such amount, the Board shall, in its report made under clause (o) of sub-section (3) of section 134, specify the reasons for not spending the amount

1. Subs. by Act 29 of 2020, s. 26, for sub-section (8) (w.e.f. 21-12-2020).

2. Subs. by Act 1 of 2018, s. 37, for "any financial year" (w.e.f. 19-9-2018).

3. The proviso ins. by s. 37, *ibid.*, (w.e.f. 19-9-2018).

4. Subs. by s. 37, *ibid.*, for "as specified in Schedule VII" (w.e.f. 19-9-2018).

5. Ins. by Act 22 of 2019, s. 21 (w.e.f. 22-1-2021).

¹[and, unless the unspent amount relates to any ongoing project referred to in sub-section (6), transfer such unspent amount to a Fund specified in Schedule VII, within a period of six months of the expiry of the financial years].

²[Provided also that if the company spends an amount in excess of the requirements provided under this sub-section, such company may set off such excess amount against the requirement to spend under this sub-section for such number of succeeding financial years and in such manner, as may be prescribed.]

³[*Explanation.*—For the purposes of this section “net profit” shall not include such sums as may be prescribed, and shall be calculated in accordance with the provisions of section 198.]

⁴[(6) Any amount remaining unspent under sub-section (5), pursuant to any ongoing project, fulfilling such conditions as may be prescribed, undertaken by a company in pursuance of its Corporate Social Responsibility Policy, shall be transferred by the company within a period of thirty days from the end of the financial year to a special account to be opened by the company in that behalf for that financial year in any scheduled bank to be called the Unspent Corporate Social Responsibility Account, and such amount shall be spent by the company in pursuance of its obligation towards the Corporate Social Responsibility Policy within a period of three financial years from the date of such transfer, failing which, the company shall transfer the same to a Fund specified in Schedule VII, within a period of thirty days from the date of completion of the third financial year.

⁵[(7) If a company is in default in complying with the provisions of sub-section (5) or sub-section (6), the company shall be liable to a penalty of twice the amount required to be transferred by the company to the Fund specified in Schedule VII or the Unspent Corporate Social Responsibility Account, as the case may be, or one crore rupees, whichever is less, and every officer of the company who is in default shall be liable to a penalty of one-tenth of the amount required to be transferred by the company to such Fund specified in Schedule VII, or the Unspent Corporate Social Responsibility Account, as the case may be, or two lakh rupees, whichever is less.]

(8) The Central Government may give such general or special directions to a company or class of companies as it considers necessary to ensure compliance of provisions of this section and such company or class of companies shall comply with such directions.]

⁶[(9) Where the amount to be spent by a company under sub-section (5) does not exceed fifty lakh rupees, the requirement under sub-section (1) for constitution of the Corporate Social Responsibility Committee shall not be applicable and the functions of such Committee provided under this section shall, in such cases, be discharged by the Board of Directors of such company.]

136. Right of member to copies of audited financial statement.—(1) ^{7***} a copy of the financial statements, including consolidated financial statements, if any, auditor’s report and every other document required by law to be annexed or attached to the financial statements, which are to be laid before a company in its general meeting, shall be sent to every member of the company, to every trustee for the debenture-holder of any debentures issued by the company, and to all persons other than such member or trustee, being the person so entitled, not less than twenty-one days before the date of the meeting:

⁸[Provided that if the copies of the documents are sent less than twenty-one days before the date of the meeting, they shall, notwithstanding that fact, be deemed to have been duly sent if it is so agreed by members—

(a) holding, if the company has a share capital, majority in number entitled to vote and who represent not less than ninety-five per cent. of such part of the paid-up share capital of the company as gives a right to vote at the meeting; or

(b) having, if the company has no share capital, not less than ninety-five per cent. of the total voting power exercisable at the meeting:

Provided further that] in the case of a listed company, the provisions of this sub-section shall be deemed to be complied with, if the copies of the documents are made available for inspection at its registered

1. Ins. by Act 22 of 2019, s. 21 (w.e.f. 22-1-2021).

2. The Proviso ins. by s. 27, *ibid.* (w.e.f. 22-1-2021).

3. Subs. by Act 1 of 2018, s. 37, for the *Explanation* (w.e.f. 19-9-2018).

4. Ins. by Act 22 of 2019, s. 21 (w.e.f. 22-1-2021).

5. Subs. by Act 29 of 2020, s. 27, for sub-section (7) (w.e.f. 22-1-2021).

6. Ins. by s. 27, *ibid.* (w.e.f. 22-1-2021).

7. The words and figures “Without prejudice to the provisions of section 101” omitted by Act 1 of 2018, s. 38, (w.e.f. 9-2-2018).

8. Subs. by s. 38, *ibid.*, for “Provided that” (w.e.f. 9-2-2018).

office during working hours for a period of twenty-one days before the date of the meeting and a statement containing the salient features of such documents in the prescribed form or copies of the documents, as the company may deem fit, is sent to every member of the company and to every trustee for the holders of any debentures issued by the company not less than twenty-one days before the date of the meeting unless the shareholders ask for full financial statements:

¹[Provided also] that the Central Government may prescribe the manner of circulation of financial statements of companies having such net worth and turnover as may be prescribed:

Provided also that a listed company shall also place its financial statements including consolidated financial statements, if any, and all other documents required to be attached thereto, on its website, which is maintained by or on behalf of the company:

²[Provided also that every listed company having a subsidiary or subsidiaries shall place separate audited accounts in respect of each of subsidiary on its website, if any:

Provided also that a listed company which has a subsidiary incorporated outside India (herein referred to as "foreign subsidiary")—

(a) where such foreign subsidiary is statutorily required to prepare consolidated financial statement under any law of the country of its incorporation, the requirement of this proviso shall be met if consolidated financial statement of such foreign subsidiary is placed on the website of the listed company;

(b) where such foreign subsidiary is not required to get its financial statement audited under any law of the country of its incorporation and which does not get such financial statement audited, the holding Indian listed company may place such unaudited financial statement on its website and where such financial statement is in a language other than English, a translated copy of the financial statement in English shall also be placed on the website.]

(2) A company shall allow every member or trustee of the holder of any debentures issued by the company to inspect the documents stated under sub-section (1) at its registered office during business hours.

³[Provided that every company having a subsidiary or subsidiaries shall provide a copy of separate audited or unaudited financial statements, as the case may be, as prepared in respect of each of its subsidiary to any member of the company who asks for it.]

(3) If any default is made in complying with the provisions of this section, the company shall be liable to a penalty of twenty-five thousand rupees and every officer of the company who is in default shall be liable to a penalty of five thousand rupees.

137. Copy of financial statement to be filed with Registrar.—(1) A copy of the financial statements, including consolidated financial statement, if any, along with all the documents which are required to be or attached to such financial statements under this Act, duly adopted at the annual general meeting of the company, shall be filed with the Registrar within thirty days of the date of annual general meeting in such manner, with such fees or additional fees as may be prescribed ^{4***}:

Provided that where the financial statements under sub-section (1) are not adopted at annual general meeting or adjourned annual general meeting, such unadopted financial statements along with the required documents under sub-section (1) shall be filed with the Registrar within thirty days of the date of annual general meeting and the Registrar shall take them in his records as provisional till the financial statements are filed with him after their adoption in the adjourned annual general meeting for that purpose:

Provided further that financial statements adopted in the adjourned annual general meeting shall be filed with the Registrar within thirty days of the date of such adjourned annual general meeting with such fees or such additional fees as may be prescribed ^{1***}:

Provided also that a One Person Company shall file a copy of the financial statements duly adopted by its member, along with all the documents which are required to be attached to such financial statements, within one hundred eighty days from the closure of the financial year:

1. Subs. by Act 1 of 2018, s. 38, for "Provided further" (w.e.f. 9-2-2018).

2. Subs. by s. 38, *ibid.*, for the Fourth proviso (w.e.f. 9-2-2018).

3. The proviso ins. by s. 38, *ibid.* (w.e.f. 9-2-2018).

4. The words and figures "within the time specified under section 403" omitted by s. 39, *ibid.*, (w.e.f. 7-5-2018).

Provided also that a company shall, along with its financial statements to be filed with the Registrar, attach the accounts of its subsidiary or subsidiaries which have been incorporated outside India and which have not established their place of business in India.

¹[Provided also that in the case of a subsidiary which has been incorporated outside India (herein referred to as “foreign subsidiary”), which is not required to get its financial statement audited under any law of the country of its incorporation and which does not get such financial statement audited, the requirements of the fourth proviso shall be met if the holding Indian company files such unaudited financial statement along with a declaration to this effect and where such financial statement is in a language other than English, along with a translated copy of the financial statement in English.]

(2) Where the annual general meeting of a company for any year has not been held, the financial statements along with the documents required to be attached under sub-section (1), duly signed along with the statement of facts and reasons for not holding the annual general meeting shall be filed with the Registrar within thirty days of the last date before which the annual general meeting should have been held and in such manner, with such fees or additional fees as may be prescribed ^{2***}.

(3) If a company fails to file the copy of the financial statements under sub-section (1) or sub-section (2), as the case may be, before the expiry of the period specified ³[therein] the company shall be ⁴[liable to a penalty] of ⁵[ten thousand rupees and in case of continuing failure, with a further penalty of one hundred rupees for each day during which such failure continues, subject to a maximum of two lakh rupees,] and the managing director and the Chief Financial Officer of the company, if any, and, in the absence of the managing director and the Chief Financial Officer, any other director who is charged by the Board with the responsibility of complying with the provisions of this section, and, in the absence of any such director, all the directors of the company, shall be ⁶[shall be liable to a penalty of ⁷[ten thousand rupees] and in case of continuing failure, with a further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of ⁸[fifty thousand rupees.]

138. Internal audit.—(1) Such class or classes of companies as may be prescribed shall be required to appoint an internal auditor, who shall either be a chartered accountant or a cost accountant, or such other professional as may be decided by the Board to conduct internal audit of the functions and activities of the company.

(2) The Central Government may, by rules, prescribe the manner and the intervals in which the internal audit shall be conducted and reported to the Board.

CHAPTER X AUDIT AND AUDITORS

139. Appointment of auditors.—(1) Subject to the provisions of this Chapter, every company shall, at the first annual general meeting, appoint an individual or a firm as an auditor who shall hold office from the conclusion of that meeting till the conclusion of its sixth annual general meeting and thereafter till the conclusion of every sixth meeting and the manner and procedure of selection of auditors by the members of the company at such meeting shall be such as may be prescribed:

9*

*

*

*

*

Provided further that before such appointment is made, the written consent of the auditor to such appointment, and a certificate from him or it that the appointment, if made, shall be in accordance with the conditions as may be prescribed, shall be obtained from the auditor:

-
1. The proviso ins. by Act 1 of 2018, s. 39 (w.e.f. 7-5-2018).
 2. The words and figures “within the time specified, under section 403” omitted by s. 39, *ibid.* (w.e.f. 7-5-2018).
 3. Subs. by s. 39, *ibid.*, for “in section 403” (w.e.f. 7-5-2018).
 4. Subs. by Act 22 of 2019, s. 22, for “punishable with fine” (w.e.f. 2-11-2018).
 5. Subs. by Act 29 of 2020, s. 28, for “one thousand rupees for every day during which the failure continues but which shall not be more than ten lakh rupees” (w.e.f. 21-12-2020).
 6. Subs. by Act 22 of 2019, s. 22, for “punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees, or with both” (w.e.f. 2-11-2018).
 7. Subs. by Act 29 of 2020, s. 28, for “one lakh rupees” (w.e.f. 21-12-2020).
 8. Subs. by s. 28, *ibid.*, for “five lakh rupees” (w.e.f. 21-12-2020).
 9. The first proviso omitted by Act 1 of 2018, s. 40 (w.e.f. 7-5-2018).

Provided also that the certificate shall also indicate whether the auditor satisfies the criteria provided in section 141:

Provided also that the company shall inform the auditor concerned of his or its appointment, and also file a notice of such appointment with the Registrar within fifteen days of the meeting in which the auditor is appointed.

Explanation.—For the purposes of this Chapter, “appointment” includes re-appointment.

(2) No listed company or a company belonging to such class or classes of companies as may be prescribed, shall appoint or re-appoint—

(a) an individual as auditor for more than one term of five consecutive years; and

(b) an audit firm as auditor for more than two terms of five consecutive years:

Provided that—

(i) an individual auditor who has completed his term under clause (a) shall not be eligible for re-appointment as auditor in the same company for five years from the completion of his term;

(ii) an audit firm which has completed its term under clause (b), shall not be eligible for re-appointment as auditor in the same company for five years from the completion of such term:

Provided further that as on the date of appointment no audit firm having a common partner or partners to the other audit firm, whose tenure has expired in a company immediately preceding the financial year, shall be appointed as auditor of the same company for a period of five years:

¹[Provided also that every company, existing on or before the commencement of this Act which is required to comply with the provisions of this sub-section, shall comply with requirement of this sub-section within a period which shall not be later than the date of the first annual general meeting of the company held, within the period specified under sub-section (1) of section 96, after three years from the date of commencement of this Act:]

Provided also that, nothing contained in this sub-section shall prejudice the right of the company to remove an auditor or the right of the auditor to resign from such office of the company.

(3) Subject to the provisions of this Act, members of a company may resolve to provide that—

(a) in the audit firm appointed by it, the auditing partner and his team shall be rotated at such intervals as may be resolved by members; or

(b) the audit shall be conducted by more than one auditor.

(4) The Central Government may, by rules, prescribe the manner in which the companies shall rotate their auditors in pursuance of sub-section (2).

Explanation.—For the purposes of this Chapter, the word “firm” shall include a limited liability partnership incorporated under the Limited Liability Partnership Act, 2008 (6 of 2009).

(5) Notwithstanding anything contained in sub-section (1), in the case of a Government company or any other company owned or controlled, directly or indirectly, by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments, the Comptroller and Auditor-General of India shall, in respect of a financial year, appoint an auditor duly qualified to be appointed as an auditor of companies under this Act, within a period of one hundred and eighty days from the commencement of the financial year, who shall hold office till the conclusion of the annual general meeting.

(6) Notwithstanding anything contained in sub-section (1), the first auditor of a company, other than a Government company, shall be appointed by the Board of Directors within thirty days from the date of registration of the company and in the case of failure of the Board to appoint such auditor, it shall inform the members of the company, who shall within ninety days at an extraordinary general meeting appoint such auditor and such auditor shall hold office till the conclusion of the first annual general meeting.

1. Subs. by notification No. S.O. 2264(E), dated 30th June, 2016, for the proviso (w.e.f.1-4-2014).

(7) Notwithstanding anything contained in sub-section (1) or sub-section (5), in the case of a Government company or any other company owned or controlled, directly or indirectly, by the Central Government, or by any State Government, or Governments, or partly by the Central Government and partly by one or more State Governments, the first auditor shall be appointed by the Comptroller and Auditor-General of India within sixty days from the date of registration of the company and in case the Comptroller and Auditor-General of India does not appoint such auditor within the said period, the Board of Directors of the company shall appoint such auditor within the next thirty days; and in the case of failure of the Board to appoint such auditor within the next thirty days, it shall inform the members of the company who shall appoint such auditor within the sixty days at an extraordinary general meeting, who shall hold office till the conclusion of the first annual general meeting.

(8) Any casual vacancy in the office of an auditor shall—

(i) in the case of a company other than a company whose accounts are subject to audit by an auditor appointed by the Comptroller and Auditor-General of India, be filled by the Board of Directors within thirty days, but if such casual vacancy is as a result of the resignation of an auditor, such appointment shall also be approved by the company at a general meeting convened within three months of the recommendation of the Board and he shall hold the office till the conclusion of the next annual general meeting;

(ii) in the case of a company whose accounts are subject to audit by an auditor appointed by the Comptroller and Auditor-General of India, be filled by the Comptroller and Auditor-General of India within thirty days:

Provided that in case the Comptroller and Auditor-General of India does not fill the vacancy within the said period, the Board of Directors shall fill the vacancy within next thirty days.

(9) Subject to the provisions of sub-section (1) and the rules made thereunder, any auditor may be re-appointed at an annual general meeting, if—

(a) he is not disqualified for re-appointment;

(b) he has not given the company a notice in writing of his unwillingness to be re-appointed; and

(c) a special resolution has not been passed at that meeting appointing some other auditor or providing expressly that he shall not be re-appointed.

(10) Where at any annual general meeting, no auditor is appointed or re-appointed, the existing auditor shall continue to be the auditor of the company.

(11) Where a company is required to constitute an Audit Committee under section 177, all appointments, including the filling of a casual vacancy of an auditor under this section shall be made after taking into account the recommendations of such committee.

140. Removal, resignation of auditor and giving of special notice.—(1) The auditor appointed under section 139 may be removed from his office before the expiry of his term only by a special resolution of the company, after obtaining the previous approval of the Central Government in that behalf in the prescribed manner:

Provided that before taking any action under this sub-section, the auditor concerned shall be given a reasonable opportunity of being heard.

(2) The auditor who has resigned from the company shall file within a period of thirty days from the date of resignation, a statement in the prescribed form with the company and the Registrar, and in case of companies referred to in sub-section (5) of section 139, the auditor shall also file such statement with the Comptroller and Auditor-General of India, indicating the reasons and other facts as may be relevant with regard to his resignation.

¹[(3) If the auditor does not comply with the provisions of sub-section (2), he or it shall be liable to a penalty of fifty thousand rupees or an amount equal to the remuneration of the auditor, whichever is less,

1. Subs. by Act 22 of 2019, s. 23, for sub-section (3) (w.e.f. 2-11-2018).

and in case of continuing failure, with a further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of ¹[two lakh rupees].]

(4) (i) Special notice shall be required for a resolution at an annual general meeting appointing as auditor a person other than a retiring auditor, or providing expressly that a retiring auditor shall not be re-appointed, except where the retiring auditor has completed a consecutive tenure of five years or, as the case may be, ten years, as provided under sub-section (2) of section 139.

(ii) On receipt of notice of such a resolution, the company shall forthwith send a copy thereof to the retiring auditor.

(iii) Where notice is given of such a resolution and the retiring auditor makes with respect thereto representation in writing to the company (not exceeding a reasonable length) and requests its notification to members of the company, the company shall, unless the representation is received by it too late for it to do so,—

(a) in any notice of the resolution given to members of the company, state the fact of the representation having been made; and

(b) send a copy of the representation to every member of the company to whom notice of the meeting is sent, whether before or after the receipt of the representation by the company,

and if a copy of the representation is not sent as aforesaid because it was received too late or because of the company's default, the auditor may (without prejudice to his right to be heard orally) require that the representation shall be read out at the meeting:

Provided that if a copy of representation is not sent as aforesaid, a copy thereof shall be filed with the Registrar:

Provided further that if the Tribunal is satisfied on an application either of the company or of any other aggrieved person that the rights conferred by this sub-section are being abused by the auditor, then, the copy of the representation may not be sent and the representation need not be read out at the meeting.

(5) Without prejudice to any action under the provisions of this Act or any other law for the time being in force, the Tribunal either *suo motu* or on an application made to it by the Central Government or by any person concerned, if it is satisfied that the auditor of a company has, whether directly or indirectly, acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to, the company or its directors or officers, it may, by order, direct the company to change its auditors:

Provided that if the application is made by the Central Government and the Tribunal is satisfied that any change of the auditor is required, it shall within fifteen days of receipt of such application, make an order that he shall not function as an auditor and the Central Government may appoint another auditor in his place:

Provided further that an auditor, whether individual or firm, against whom final order has been passed by the Tribunal under this section shall not be eligible to be appointed as an auditor of any company for a period of five years from the date of passing of the order and the auditor shall also be liable for action under section 447.

Explanation I.—It is hereby clarified that the case of a firm, the liability shall be of the firm and that of every partner or partners who acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to, the company or its director or officers.

Explanation II.—For the purposes of this Chapter the word “auditor” includes a firm of auditors.

141. Eligibility, qualifications and disqualifications of auditors.—(1) A person shall be eligible for appointment as an auditor of a company only if he is a chartered accountant:

Provided that a firm whereof majority of partners practising in India are qualified for appointment as aforesaid may be appointed by its firm name to be auditor of a company.

1. Subs. by Act 29 of 2020, s. 29, for “five lakh rupees” (w.e.f. 21-12-2020).

(2) Where a firm including a limited liability partnership is appointed as an auditor of a company, only the partners who are chartered accountants shall be authorised to act and sign on behalf of the firm.

(3) The following persons shall not be eligible for appointment as an auditor of a company, namely:—

(a) a body corporate other than a limited liability partnership registered under the Limited Liability Partnership Act, 2008 (6 of 2009);

(b) an officer or employee of the company;

(c) a person who is a partner, or who is in the employment, of an officer or employee of the company;

(d) a person who, or his relative or partner—

(i) is holding any security of or interest in the company or its subsidiary, or of its holding or associate company or a subsidiary of such holding company:

Provided that the relative may hold security or interest in the company office value not exceeding one thousand rupees or such sum as may be prescribed;

(ii) is indebted to the company, or its subsidiary, or its holding or associate company or a subsidiary of such holding company, in excess of such amount as may be prescribed; or

(iii) has given a guarantee or provided any security in connection with the indebtedness of any third person to the company, or its subsidiary, or its holding or associate company or a subsidiary of such holding company, for such amount as may be prescribed;

(e) a person or a firm who, whether directly or indirectly, has business relationship with the company, or its subsidiary, or its holding or associate company or subsidiary of such holding company or associate company of such nature as may be prescribed;

(f) a person whose relative is a director or is in the employment of the company as a director or key managerial personnel;

(g) a person who is in full time employment elsewhere or a person or a partner of a firm holding appointment as its auditor, if such persons or partner is at the date of such appointment or reappointment holding appointment as auditor of more than twenty companies;

(h) a person who has been convicted by a court of an offence involving fraud and a period of ten years has not elapsed from the date of such conviction;

¹[(i) a person who, directly or indirectly, renders any service referred to in section 144 to the company or its holding company or its subsidiary company.

Explanation.—For the purposes of this clause, the term “directly or indirectly” shall have the meaning assigned to it in the *Explanation* to section 144.]

(4) Where a person appointed as an auditor of a company incurs any of the disqualifications mentioned in sub-section (3) after his appointment, he shall vacate his office as such auditor and such vacation shall be deemed to be a casual vacancy in the office of the auditor.

142. Remuneration of auditors.—(1) The remuneration of the auditor of a company shall be fixed in its general meeting or in such manner as may be determined therein:

Provided that the Board may fix remuneration of the first auditor appointed by it.

(2) The remuneration under sub-section (1) shall, in addition to the fee payable to an auditor, include the expenses, if any, incurred by the auditor in connection with the audit of the company and any facility extended to him but does not include any remuneration paid to him for any other service rendered by him at the request of the company.

1. Subs. by Act 1 of 2018, s. 42, for clause (i) (w.e.f. 9-2-2018).

143. Powers and duties of auditors and auditing standards.—(1) Every auditor of a company shall have a right of access at all times to the books of account and vouchers of the company, whether kept at the registered office of the company or at any other place and shall be entitled to require from the officers of the company such information and explanation as he may consider necessary for the performance of his duties as auditor and amongst other matters inquire into the following matters, namely:—

(a) whether loans and advances made by the company on the basis of security have been properly secured and whether the terms on which they have been made are prejudicial to the interests of the company or its members;

(b) whether transactions of the company which are represented merely by book entries are prejudicial to the interests of the company;

(c) where the company not being an investment company or a banking company, whether so much of the assets of the company as consist of shares, debentures and other securities have been sold at a price less than that at which they were purchased by the company;

(d) whether loans and advances made by the company have been shown as deposits;

(e) whether personal expenses have been charged to revenue account;

(f) where it is stated in the books and documents of the company that any shares have been allotted for cash, whether cash has actually been received in respect of such allotment, and if no cash has actually been so received, whether the position as stated in the account books and the balance sheet is correct, regular and not misleading:

Provided that the auditor of a company which is a holding company shall also have the right of access to the records of all ¹[its subsidiaries and associate companies] in so far as it relates to the consolidation of its financial statements with that of ¹[its subsidiaries and associate companies.]

(2) The auditor shall make a report to the members of the company on the accounts examined by him and on every financial statements which are required by or under this Act to be laid before the company in general meeting and the report shall after taking into account the provisions of this Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of this Act or any rules made thereunder or under any order made under sub-section (11) and to the best of his information and knowledge, the said accounts, financial statements give a true and fair view of the state of the company's affairs as at the end of its financial year and profit or loss and cash flow for the year and such other matters as may be prescribed.

(3) The auditor's report shall also state—

(a) whether he has sought and obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purpose of his audit and if not, the details thereof and the effect of such information on the financial statements;

(b) whether, in his opinion, proper books of account as required by law have been kept by the company so far as appears from his examination of those books and proper returns adequate for the purposes of his audit have been received from branches not visited by him;

(c) whether the report on the accounts of any branch office of the company audited under sub-section (8) by a person other than the company's auditor has been sent to him under the proviso to that sub-section and the manner in which he has dealt with it in preparing his report;

(d) whether the company's balance sheet and profit and loss account dealt within the report are in agreement with the books of account and returns;

(e) whether, in his opinion, the financial statements comply with the accounting standards;

(f) the observations or comments of the auditors on financial transactions or matters which have any adverse effect on the functioning of the company;

(g) whether any director is disqualified from being appointed as a director under sub-section (2) of section 164;

(h) any qualification, reservation or adverse remark relating to the maintenance of accounts and other matters connected therewith;

1. Subs. by Act 1 of 2018, s. 43, for "its subsidiaries" (w.e.f. 9-2-2018).

(i) whether the company has adequate ¹[internal financial controls with reference to financial statements] in place and the operating effectiveness of such controls;

(j) such other matters as may be prescribed.

(4) Where any of the matters required to be included in the audit report under this section is answered in the negative or with a qualification, the report shall state the reasons therefor.

(5) ²[In the case of a Government company or any other company owned or controlled, directly or indirectly, by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments, the Comptroller and Auditor General of India shall appoint the auditor under sub-section (5) or sub-section (7) of Section 139 and direct such auditor the manner in which the accounts of the company are required to be audited and] thereupon the auditor so appointed shall submit a copy of the audit report to the Comptroller and Auditor-General of India which, among other things, include the directions, if any, issued by the Comptroller and Auditor-General of India, the action taken thereon and its impact on the accounts and financial statement of the company.

(6) The Comptroller and Auditor-General of India shall within sixty days from the date of receipt of the audit report under sub-section (5) have a right to,—

(a) conduct a supplementary audit of the financial statement of the company by such person or persons as he may authorise in this behalf; and for the purposes of such audit, require information or additional information to be furnished to any person or persons, so authorised, on such matters, by such person or persons, and in such form, as the Comptroller and Auditor-General of India may direct; and

(b) comment upon or supplement such audit report:

Provided that any comments given by the Comptroller and Auditor-General of India upon, or supplement to, the audit report shall be sent by the company to every person entitled to copies of audited financial statements under sub section (1) of section 136 and also be placed before the annual general meeting of the company at the same time and in the same manner as the audit report.

(7) Without prejudice to the provisions of this Chapter, the Comptroller and Auditor-General of India may, in case of any company covered under sub-section (5) or sub-section (7) of section 139, if he considers necessary, by an order, cause test audit to be conducted of the accounts of such company and the provisions of section 19A of the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971 (56 of 1971), shall apply to the report of such test audit.

(8) Where a company has a branch office, the accounts of that office shall be audited either by the auditor appointed for the company (herein referred to as the company's auditor) under this Act or by any other person qualified for appointment as an auditor of the company under this Act and appointed as such under section 139, or where the branch office is situated in a country outside India, the accounts of the branch office shall be audited either by the company's auditor or by an accountant or by any other person duly qualified to act as an auditor of the accounts of the branch office in accordance with the laws of that country and the duties and powers of the company's auditor with reference to the audit of the branch and the branch auditor, if any, shall be such as may be prescribed:

Provided that the branch auditor shall prepare a report on the accounts of the branch examined by him and send it to the auditor of the company who shall deal with it in his report in such manner as he considers necessary.

(9) Every auditor shall comply with the auditing standards.

(10) The Central Government may prescribe the standards of auditing or any addendum thereto, as recommended by the Institute of Chartered Accountants of India, constituted under section 3 of the Chartered Accountants Act, 1949 (38 of 1949), in consultation with and after examination of the recommendations made by the National Financial Reporting Authority:

1. Subs. by Act 1 of 2018, s. 43, for "internal financial controls system" (w.e.f. 9-2-2018).

2. Subs. by notification No. S.O. 2226(E), dated 4th September, 2014 for certain words (w.e.f. 4-9-2014).

Provided that until any auditing standards are notified, any standard or standards of auditing specified by the Institute of Chartered Accountants of India shall be deemed to be the auditing standards.

(11) The Central Government may, in consultation with the National Financial Reporting Authority, by general or special order, direct, in respect of such class or description of companies, as may be specified in the order, that the auditor's report shall also include a statement on such matters as may be specified therein:

¹[Provided that until the National Financial Reporting Authority is constituted under section 132, the Central Government may hold consultation required under this sub-section with the Committee chaired by an officer of the rank of Joint Secretary or equivalent in the Ministry of Corporate Affairs and the Committee shall have the representatives from the Institute of Chartered Accountants of India and Industry Chambers and also special invitees from the National Advisory Committee on Accounting Standards and the office of the Comptroller and Auditor-General.]

²[(12) Notwithstanding anything contained in this section, if an auditor of a company in the course of the performance of his duties as auditor, has reason to believe that an offence of fraud involving such amount or amounts as may be prescribed, is being or has been committed in the company by its officers or employees, the auditor shall report the matter to the Central Government within such time and in such manner as may be prescribed:

Provided that in case of a fraud involving lesser than the specified amount, the auditor shall report the matter to the audit committee constituted under section 177 or to the Board in other cases within such time and in such manner as may be prescribed:

Provided further that the companies, whose auditors have reported frauds under this sub-section to the audit committee or the Board but not reported to the Central Government, shall disclose the details about such frauds in the Board's report in such manner as may be prescribed.]

(13) No duty to which an auditor of a company may be subject to shall be regarded as having been contravened by reason of his reporting the matter referred to in sub-section (12) if it is done in good faith.

(14) The provisions of this section shall *mutatis mutandis* apply to—

- (a) the ³[cost accountant] conducting cost audit under section 148; or
- (b) the company secretary in practice conducting secretarial audit under section 204.

⁴[(15) If any auditor, cost accountant, or company secretary in practice does not comply with the provisions of sub-section (12), he shall,—

- (a) in case of a listed company, be liable to a penalty of five lakh rupees; and
- (b) in case of any other company, be liable to a penalty of one lakh rupees.]

144. Auditor not to render certain services.—An auditor appointed under this Act shall provide to the company only such other services as are approved by the Board of Directors or the audit committee, as the case may be, but which shall not include any of the following services (whether such services are rendered directly or indirectly to the company), or its holding company or subsidiary company, namely:—

- (a) accounting and book keeping services;
- (b) internal audit;
- (c) design and implementation of any financial information system;
- (d) actuarial services;
- (e) investment advisory services;
- (f) investment banking services;

1. Ins. by notification No. S.O. 1226(E), dated 29th March, 2016 (w.e.f. 10-4-2015).

2. Subs. by Act 21 of 2015, s. 13, for sub-section (12) (w.e.f. 14-12-2015).

3. Subs. by Act 1 of 2018, s. 43, for "cost accountant in practice" (w.e.f. 9-2-2018).

4. Subs. by Act 29 of 2020, s. 30, for sub-section (15) (w.e.f. 21-12-2020).

- (g) rendering of outsourced financial services;
- (h) management services; and
- (i) any other kind of services as may be prescribed:

Provided that an auditor or audit firm who or which has been performing any non-audit services on or before the commencement of this Act shall comply with the provisions of this section before the closure of the first financial year after the date of such commencement.

Explanation.—For the purposes of this sub-section, the term “directly or indirectly” shall include rendering of services by the auditor,—

- (i) in case of auditor being an individual, either himself or through his relative or any other person connected or associated with such individual or through any other entity, whatsoever, in which such individual has significant influence or control, or whose name or trade mark or brand is used by such individual;
- (ii) in case of auditor being a firm, either itself or through any of its partners or through its parent, subsidiary or associate entity or through any other entity, whatsoever, in which the firm or any partner of the firm has significant influence or control, or whose name or trade mark or brand is used by the firm or any of its partners.

145. Auditor to sign audit reports, etc.—The person appointed as an auditor of the company shall sign the auditor’s report or sign or certify any other document of the company in accordance with the provisions of sub-section (2) of section 141, and the qualifications, observations or comments on financial transactions or matters, which have any adverse effect on the functioning of the company mentioned in the auditor’s report shall be read before the company in general meeting and shall be open to inspection by any member of the company.

146. Auditors to attend general meeting.—All notices of, and other communications relating to, any general meeting shall be forwarded to the auditor of the company, and the auditor shall, unless otherwise exempted by the company, attend either by himself or through his authorised representative, who shall also be qualified to be an auditor, any general meeting and shall have right to be heard at such meeting on any part of the business which concerns him as the auditor.

147. Punishment for contravention.—(1) If any of the provisions of sections 139 to 146 (both inclusive) is contravened, the company shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees and every officer of the company who is in default shall be punishable ^{1***} with fine which shall not be less than ten thousand rupees but which may extend to ²[one lakh rupees].

(2) If an auditor of a company contravenes any of the provisions of section 139, section 143, section 144 or section 145, the auditor shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees ³[or four times the remuneration of the auditor, whichever is less]:

Provided that if an auditor has contravened such provisions knowingly or willfully with the intention to deceive the company or its shareholders or creditors or tax authorities, he shall be punishable with imprisonment for a term which may extend to one year ⁴[and with fine which shall not be less than fifty thousand rupees but which may extend to twenty-five lakh rupees or eight times the remuneration of the auditor, whichever is less].

(3) Where an auditor has been convicted under sub-section (2), he shall be liable to—

- (i) refund the remuneration received by him to the company; and

1. The words “with imprisonment for a term which may extend to one year or” omitted by Act 29 of 2020, s. 31 (w.e.f. 21-12-2020).

2. Subs. by s. 31, *ibid.*, for “one lakh rupees, or with both” (w.e.f. 21-12-2020).

3. Ins. by Act 1 of 2018, s. 44 (w.e.f. 9-2-2018).

4. Subs. by Act 1 of 2018, s. 44, for “and with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees” (w.e.f. 9-2-2018).

(ii) pay for damages to the company, statutory bodies or authorities ¹[or to members or creditors of the company] for loss arising out of incorrect or misleading statements of particulars made in his audit report.

(4) The Central Government shall, by notification, specify any statutory body or authority or an officer for ensuring prompt payment of damages to the company or the persons under clause (ii) of sub-section (3) and such body, authority or officer shall after payment of damages to such company or persons file a report with the Central Government in respect of making such damages in such manner as may be specified in the said notification.

(5) Where, in case of audit of a company being conducted by an audit firm, it is proved that the partner or partners of the audit firm has or have acted in a fraudulent manner or a betted or colluded in any fraud by, or in relation to or by, the company or its directors or officers, the liability, whether civil or criminal as provided in this Act or in any other law for the time being in force, for such act shall be of the partner or partners concerned of the audit firm and of the firm jointly and severally.

²[Provided that in case of criminal liability of an audit firm, in respect of liability other than fine, the concerned partner or partners, who acted in a fraudulent manner or abetted or, as the case may be, colluded in any fraud shall only be liable.]

148. Central Government to specify audit of items of cost in respect of certain companies.—(1)

Notwithstanding anything contained in this Chapter, the Central Government may, by order, in respect of such class of companies engaged in the production of such goods or providing such services as may be prescribed, direct that particulars relating to the utilisation of material or labour or to other items of cost as may be prescribed shall also be included in the books of account kept by that class of companies:

Provided that the Central Government shall, before issuing such order in respect of any class of companies regulated under a special Act, consult the regulatory body constituted or established under such special Act.

(2) If the Central Government is of the opinion, that it is necessary to do so, it may, by order, direct that the audit of cost records of class of companies, which are covered under sub-section (1) and which have a net worth of such amount as may be prescribed or a turnover of such amount as may be prescribed, shall be conducted in the manner specified in the order.

(3) The audit under sub-section (2) shall be conducted by a ³[cost accountant] who shall be appointed by the Board on such remuneration as may be determined by the members in such manner as may be prescribed:

Provided that no person appointed under section 139 as an auditor of the company shall be appointed for conducting the audit of cost records:

Provided further that the auditor conducting the cost audit shall comply with the cost auditing standards.

Explanation.—For the purposes of this sub-section, the expression “cost auditing standards” mean such standards as are issued by the ⁴[Institute of Cost Accountants of India], constituted under the Cost and Works Accountants Act, 1959 (23 of 1959), with the approval of the Central Government.

(4) An audit conducted under this section shall be in addition to the audit conducted under section 143.

(5) The qualifications, disqualifications, rights, duties and obligations applicable to auditors under this Chapter shall, so far as may be applicable, apply to a cost auditor appointed under this section and it shall be the duty of the company to give all assistance and facilities to the cost auditor appointed under this section for auditing the cost records of the company:

Provided that the report on the audit of cost records shall be submitted by the ⁵[cost accountant] to the Board of Directors of the company.

1. Subs. by Act 1 of 2018, s. 44, for “or to any other persons” (w.e.f. 9-2-2018).

2. The proviso ins. by s. 44, *ibid.*, (w.e.f. 9-2-2018).

3. Subs. by s. 45, *ibid.*, for “Cost Accountant in practice”(w.e.f. 9-2-2018).

4. Subs. by s. 45, *ibid.*, for “Institute of Cost and Works Accountants of India” (w.e.f. 9-2-2018).

5. Subs. by s. 45, *ibid.*, for “cost accountant in practice”(w.e.f. 9-2-2018).

(6) A company shall within thirty days from the date of receipt of a copy of the cost audit report prepared in pursuance of a direction under sub-section (2) furnish the Central Government with such report along with full information and explanation on every reservation or qualification contained therein.

(7) If, after considering the cost audit report referred to under this section and the information and explanation furnished by the company under sub-section (6), the Central Government is of the opinion that any further information or explanation is necessary, it may call for such further information and explanation and the company shall furnish the same within such time as may be specified by that Government.

(8) If any default is made in complying with the provisions of this section,—

(a) the company and every officer of the company who is in default shall be punishable in the manner as provided in sub-section (1) of section 147;

(b) the cost auditor of the company who is in default shall be punishable in the manner as provided in sub-sections (2) to (4) of section 147.

CHAPTER XI

APPOINTMENT AND QUALIFICATIONS OF DIRECTORS

149. Company to have Board of Directors.—(1) Every company shall have a Board of Directors consisting of individuals as directors and shall have—

(a) a minimum number of three directors in the case of a public company, two directors in the case of a private company, and one director in the case of a One Person Company; and

(b) a maximum of fifteen directors:

Provided that a company may appoint more than fifteen directors after passing a special resolution:

Provided further that such class or classes of companies as may be prescribed, shall have at least one woman director.

(2) Every company existing on or before the date of commencement of this Act shall within one year from such commencement comply with the requirements of the provisions of sub-section (1).

¹[(3) Every company shall have at least one director who stays in India for a total period of not less than one hundred and eighty-two days during the financial year:

Provided that in case of a newly incorporated company the requirement under this sub-section shall apply proportionately at the end of the financial year in which it is incorporated];

(4) Every listed public company shall have at least one-third of the total number of directors as independent directors and the Central Government may prescribe the minimum number of independent directors in case of any class or classes of public companies.

Explanation.—For the purposes of this sub-section, any fraction contained in such one-third number shall be rounded off as one.

(5) Every company existing on or before the date of commencement of this Act shall, within one year from such commencement or from the date of notification of the rules in this regard as may be applicable, comply with the requirements of the provisions of sub-section (4).

(6) An independent director in relation to a company, means a director other than managing director or a whole-time director or a nominee director,—

(a) who, in the opinion of the Board, is a person of integrity and possesses relevant expertise and experience;

(b) (i) who is or was not a promoter of the company or its holding, subsidiary or associate company;

(ii) who is not related to promoters or directors in the company, its holding, subsidiary or associate company;

1. Subs. by Act 1 of 2018, s. 46, for sub-section (3) (w.e.f. 7-5-2018).

(c) who has or had no ¹[pecuniary relationship, other than remuneration as such director or having transaction not exceeding ten per cent. of his total income or such amount as may be prescribed,] with the company, its holding, subsidiary or associate company, or their promoters, or directors, during the two immediately preceding financial years or during the current financial year;

²[(d) none of whose relatives—

(i) is holding any security of or interest in the company, its holding, subsidiary or associate company during the two immediately preceding financial years or during the current financial year:

Provided that the relative may hold security or interest in the company of face value not exceeding fifty lakh rupees or two per cent. of the paid-up capital of the company, its holding, subsidiary or associate company or such higher sum as may be prescribed;

(ii) is indebted to the company, its holding, subsidiary or associate company or their promoters, or directors, in excess of such amount as may be prescribed during the two immediately preceding financial years or during the current financial year;

(iii) has given a guarantee or provided any security in connection with the indebtedness of any third person to the company, its holding, subsidiary or associate company or their promoters, or directors of such holding company, for such amount as may be prescribed during the two immediately preceding financial years or during the current financial year; or

(iv) has any other pecuniary transaction or relationship with the company, or its subsidiary, or its holding or associate company amounting to two per cent. or more of its gross turnover or total income singly or in combination with the transactions referred to in sub-clause (i), (ii) or (iii);]

(e) who, neither himself nor any of his relatives—

(i) holds or has held the position of a key managerial personnel or is or has been employee of the company or its holding, subsidiary or associate company in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed;

³[Provided that in case of a relative who is an employee, the restriction under this clause shall not apply for his employment during preceding three financial years.]

(ii) is or has been an employee or proprietor or a partner, in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed, of—

(A) a firm of auditors or company secretaries in practice or cost auditors of the company or its holding, subsidiary or associate company; or

(B) any legal or a consulting firm that has or had any transaction with the company, its holding, subsidiary or associate company amounting to ten per cent. or more of the gross turnover of such firm;

(iii) holds together with his relatives two per cent. or more of the total voting power of the company; or

(iv) is a Chief Executive or director, by whatever name called, of any nonprofit organisation that receives twenty-five per cent. or more of its receipts from the company, any of its promoters, directors or its holding, subsidiary or associate company or that holds two per cent. or more of the total voting power of the company; or

(f) who possesses such other qualifications as may be prescribed.

(7) Every independent director shall at the first meeting of the Board in which he participates as a director and thereafter at the first meeting of the Board in every financial year or whenever there is any change in the circumstances which may affect his status as an independent director, give a declaration that he meets the criteria of independence as provided in sub-section (6).

1. Subs. by Act 1 of 2018, s. 46, for “pecuniary relationship” (w.e.f. 7-5-2018).

2. Subs. by s. 46, *ibid.*, for clause (d) (w.e.f. 7-5-2018).

3. The proviso ins. by s. 46, *ibid.*, (w.e.f. 7-5-2018).

Explanation.—For the purposes of this section, “nominee director” means a director nominated by any financial institution in pursuance of the provisions of any law for the time being in force, or of any agreement, or appointed by any Government, or any other person to represent its interests.

(8) The company and independent directors shall abide by the provisions specified in Schedule IV.

(9) Notwithstanding anything contained in any other provision of this Act, but subject to the provisions of sections 197 and 198, an independent director shall not be entitled to any stock option and may receive remuneration by way of fee provided under sub-section (5) of section 197, reimbursement of expenses for participation in the Board and other meetings and profit related commission as may be approved by the members.

¹[Provided that if a company has no profits or its profits are inadequate, an independent director may receive remuneration, exclusive of any fees payable under sub-section (5) of section 197, in accordance with the provisions of Schedule V.]

(10) Subject to the provisions of section 152, an independent director shall hold office for a term up to five consecutive years on the Board of a company, but shall be eligible for reappointment on passing of a special resolution by the company and disclosure of such appointment in the Board's report.

(11) Notwithstanding anything contained in sub-section (10), no independent director shall hold office for more than two consecutive terms, but such independent director shall be eligible for appointment after the expiration of three years of ceasing to become an independent director:

Provided that an independent director shall not, during the said period of three years, be appointed in or be associated with the company in any other capacity, either directly or indirectly.

Explanation.—For the purposes of sub-sections (10) and (11), any tenure of an independent director on the date of commencement of this Act shall not be counted as a term under those sub-sections.

(12) Notwithstanding anything contained in this Act,—

(i) an independent director;

(ii) a non-executive director not being promoter or key managerial personnel,

shall be held liable, only in respect of such acts of omission or commission by a company which had occurred with his knowledge, attributable through Board processes, and with his consent or connivance or where he had not acted diligently.

(13) The provisions of sub-sections (6) and (7) of section 152 in respect of retirement of directors by rotation shall not be applicable to appointment of independent directors.

150. Manner of selection of independent directors and maintenance of databank of independent directors.—(1) Subject to the provisions contained in sub-section (6) of section 149, an independent director may be selected from a data bank containing names, addresses and qualifications of persons who are eligible and willing to act as independent directors, maintained by any body, institute or association, as may be notified by the Central Government, having expertise in creation and maintenance of such data bank and put on their website for the use by the company making the appointment of such directors:

Provided that responsibility of exercising due diligence before selecting a person from the data bank referred to above, as an independent director shall lie with the company making such appointment.

(2) The appointment of independent director shall be approved by the company in general meeting as provided in sub-section (2) of section 152 and the explanatory statement annexed to the notice of the general meeting called to consider the said appointment shall indicate the justification for choosing the appointee for appointment as independent director.

(3) The data bank referred to in sub-section (1), shall create and maintain data of persons willing to act as independent director in accordance with such rules as may be prescribed.

(4) The Central Government may prescribe the manner and procedure of selection of independent directors who fulfil the qualifications and requirements specified under section 149.

151. Appointment of director elected by small shareholders.—A listed company may have one director elected by such small shareholders in such manner and with such terms and conditions as may be prescribed.

1. Ins. by Act 29 of 2020, s. 32 (w.e.f. 18-3-2021).

Explanation.—For the purposes of this section “small shareholders” means a shareholder holding shares of nominal value of not more than twenty thousand rupees or such other sum as may be prescribed.

152. Appointment of directors.—(1) Where no provision is made in the articles of a company for the appointment of the first director, the subscribers to the memorandum who are individuals shall be deemed to be the first directors of the company until the directors are duly appointed and in case of a One Person Company an individual being member shall be deemed to be its first director until the director or directors are duly appointed by the member in accordance with the provisions of this section.

(2) Save as otherwise expressly provided in this Act, every director shall be appointed by the company in general meeting.

(3) No person shall be appointed as a director of a company unless he has been allotted the Director Identification Number under section 154¹[or any other number as may be prescribed under section 153].

(4) Every person proposed to be appointed as a director by the company in general meeting or otherwise, shall furnish his Director Identification Number¹[or such other number as may be prescribed under section 153] and a declaration that he is not disqualified to become a director under this Act.

(5) A person appointed as a director shall not act as a director unless he gives his consent to hold the office as director and such consent has been filed with the Registrar within thirty days of his appointment in such manner as may be prescribed:

Provided that in the case of appointment of an independent director in the general meeting, an explanatory statement for such appointment, annexed to the notice for the general meeting, shall include a statement that in the opinion of the Board, he fulfils the conditions specified in this Act for such an appointment.

(6) (a) Unless the articles provide for the retirement of all directors at every annual general meeting, not less than two-thirds of the total number of directors of a public company shall—

(i) be persons whose period of office is liable to determination by retirement of directors by rotation; and

(ii) save as otherwise expressly provided in this Act, be appointed by the company in general meeting.

(b) The remaining directors in the case of any such company shall, in default of, and subject to any regulations in the articles of the company, also be appointed by the company in general meeting.

(c) At the first annual general meeting of a public company held next after the date of the general meeting at which the first directors are appointed in accordance with clauses (a) and (b) and at every subsequent annual general meeting, one-third of such of the directors for the time being as are liable to retire by rotation, or if their number is neither three nor a multiple of three, then, the number nearest to one-third, shall retire from office.

(d) The directors to retire by rotation at every annual general meeting shall be those who have been longest in office since their last appointment, but as between persons who became directors on the same day, those who are to retire shall, in default of and subject to any agreement among themselves, be determined by lot.

(e) At the annual general meeting at which a director retires as aforesaid, the company may fill up the vacancy by appointing the retiring director or some other person thereto.

Explanation.—For the purposes of this sub-section, “total number of directors” shall not include independent directors, whether appointed under this Act or any other law for the time being in force, on the Board of a company.

(7) (a) If the vacancy of the retiring director is not so filled-up and the meeting has not expressly resolved not to fill the vacancy, the meeting shall stand adjourned till the same day in the next week, at the

1. Ins. by Act 1 of 2018, s. 47 (w.e.f. 9-2-2018).

same time and place, or if that day is a national holiday, till the next succeeding day which is not a holiday, at the same time and place.

(b) If at the adjourned meeting also, the vacancy of the retiring director is not filled up and that meeting also has not expressly resolved not to fill the vacancy, the retiring director shall be deemed to have been re-appointed at the adjourned meeting, unless—

- (i) at that meeting or at the previous meeting a resolution for the re-appointment of such director has been put to the meeting and lost;
- (ii) the retiring director has, by a notice in writing addressed to the company or its Board of directors, expressed his unwillingness to be so re-appointed;
- (iii) he is not qualified or is disqualified for appointment;
- (iv) a resolution, whether special or ordinary, is required for his appointment or re-appointment by virtue of any provisions of this Act; or
- (v) section 162 is applicable to the case.

Explanation.—For the purposes of this section and section 160, the expression “retiring director” means a director retiring by rotation.

153. Application for allotment of Director Identification Number.—Every individual intending to be appointed as director of a company shall make an application for allotment of Director Identification Number to the Central Government in such form and manner and along with such fees as may be prescribed:

¹[Provided that the Central Government may prescribe any identification number which shall be treated as Director Identification Number for the purposes of this Act and in case any individual holds or acquires such identification number, the requirement of this section shall not apply or apply in such manner as may be prescribed.]

154. Allotment of Director Identification Number.—The Central Government shall, within one month from the receipt of the application under section 153, allot a Director Identification Number to an applicant in such manner as may be prescribed.

155. Prohibition to obtain more than one Director Identification Number.—No individual, who has already been allotted a Director Identification Number under section 154, shall apply for, obtain or possess another Director Identification Number.

156. Director to intimate Director Identification Number.—Every existing director shall, within one month of the receipt of Director Identification Number from the Central Government, intimate his Director Identification Number to the company or all companies wherein he is a director.

157. Company to inform Director Identification Number to Registrar.—(1) Every company shall, within fifteen days of the receipt of intimation under section 156, furnish the Director Identification Number of all its directors to the Registrar or any other officer or authority as may be specified by the Central Government with such fees as may be prescribed or with such additional fees as may be prescribed ^{2***} and every such intimation shall be furnished in such form and manner as may be prescribed.

³[(2) If any company fails to furnish the Director Identification Number under sub-section (1), such company shall be liable to a penalty of twenty-five thousand rupees and in case of continuing failure, with a further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of one lakh rupees, and every officer of the company who is in default shall be liable to a penalty of not less than twenty-five thousand rupees and in case of continuing failure, with a further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of one lakh rupees.]

158. Obligation to indicate Director Identification Number.—Every person or company, while furnishing any return, information or particulars as are required to be furnished under this Act, shall mention the Director Identification Number in such return, information or particulars in case such return, information or particulars relate to the director or contain any reference of any director.

1. The proviso ins. by Act 1 of 2018, s. 48 (w.e.f. 9-2-2018).

2. The words and figures “within the time specified under section 403” omitted by Act 1 of 2018, s. 49 (w.e.f. 7-5-2018).

3. Subs. by Act 22 of 2019, s. 24, for sub-section (2) (w.e.f. 2-11-2018).

¹[**159. Penalty for default of certain provisions.**—If any individual or director of a company makes any default in complying with any of the provisions of section 152, section 155 and section 156, such individual or director of the company shall be liable to a penalty which may extend to fifty thousand rupees and where the default is a continuing one, with a further penalty which may extend to five hundred rupees for each day after the first during which such default continues.]

160. Right of persons other than retiring directors to stand for directorship.—(1) A person who is not a retiring director in terms of section 152 shall, subject to the provisions of this Act, be eligible for appointment to the office of a director at any general meeting, if he, or some member intending to propose him as a director, has, not less than fourteen days before the meeting, left at the registered office of the company, a notice in writing under his hand signifying his candidature as a director or, as the case may be, the intention of such member to propose him as a candidate for that office, along with the deposit of one lakh rupees or such higher amount as may be prescribed which shall be refunded to such person or, as the case may be, to the member, if the person proposed gets elected as a director or gets more than twenty-five per cent. of total valid votes cast either on show of hands or on poll on such resolution.

²[Provided that requirements of deposit of amount shall not apply in case of appointment of an independent director or a director recommended by the Nomination and Remuneration Committee, if any, constituted under sub-section (1) of section 178 or a director recommended by the Board of Directors of the Company, in the case of a company not required to constitute Nomination and Remuneration Committee.]

(2) The company shall inform its members of the candidature of a person for the office of director under sub-section (1) in such manner as may be prescribed.

161. Appointment of additional director, alternate director and nominee director.—(1) The articles of a company may confer on its Board of Directors the power to appoint any person, other than a person who fails to get appointed as a director in a general meeting, as an additional director at any time who shall hold office up to the date of the next annual general meeting or the last date on which the annual general meeting should have been held, whichever is earlier.

(2) The Board of Directors of a company may, if so authorised by its articles or by a resolution passed by the company in general meeting, appoint a person, not being a person holding any alternate directorship for any other director in the company ³[or holding directorship in the same company], to act as an alternate director for a director during his absence for a period of not less than three months from India:

Provided that no person shall be appointed as an alternate director for an independent director unless he is qualified to be appointed as an independent director under the provisions of this Act:

Provided further that an alternate director shall not hold office for a period longer than that permissible to the director in whose place he has been appointed and shall vacate the office if and when the director in whose place he has been appointed returns to India:

Provided also that if the term of office of the original director is determined before he so returns to India, any provision for the automatic re-appointment of retiring directors in default of another appointment shall apply to the original, and not to the alternate director.

(3) Subject to the articles of a company, the Board may appoint any person as a director nominated by any institution in pursuance of the provisions of any law for the time being in force or of any agreement or by the Central Government or the State Government by virtue of its shareholding in a Government company.

(4) ^{4***} If the office of any director appointed by the company in general meeting is vacated before his term of office expires in the normal course, the resulting casual vacancy may, in default of and subject to any regulations in the articles of the company, be filled by the Board of Directors at a meeting of the Board ¹[which shall be subsequently approved by members in the immediate next general meeting]:

1. Subs. by Act 22 of 2019, s. 25, for section 159 (w.e.f. 2-11-2018).

2. The proviso ins. by Act 1 of 2018, s. 50 (w.e.f. 9-2-2018).

3. Ins. by Act 1 of 2018, s. 51 (w.e.f. 9-2-2018).

4. The words "In the case of a public company," omitted by s. 51, *ibid.* (w.e.f. 9-2-2018).

Provided that any person so appointed shall hold office only up to the date up to which the director in whose place he is appointed would have held office if it had not been vacated.

162. Appointment of directors to be voted individually.—(1) At a general meeting of a company, a motion for the appointment of two or more persons as directors of the company by a single resolution shall not be moved unless a proposal to move such a motion has first been agreed to at the meeting without any vote being cast against it.

(2) A resolution moved in contravention of sub-section (1) shall be void, whether or not any objection was taken when it was moved.

(3) A motion for approving a person for appointment, or for nominating a person for appointment as a director, shall be treated as a motion for his appointment.

163. Option to adopt principle of proportional representation for appointment of directors.—Notwithstanding anything contained in this Act, the articles of a company may provide for the appointment of not less than two-thirds of the total number of the directors of a company in accordance with the principle of proportional representation, whether by the single transferable vote or by a system of cumulative voting or otherwise and such appointments may be made once in every three years and casual vacancies of such directors shall be filled as provided in sub-section (4) of section 161.

164. Disqualifications for appointment of director.—(1) A person shall not be eligible for appointment as a director of a company, if—

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

(b) he is an undischarged insolvent;

(c) he has applied to be adjudicated as an insolvent and his application is pending;

(d) he has been convicted by a court of any offence, whether involving moral turpitude or otherwise, and sentenced in respect thereof to imprisonment for not less than six months and a period of five years has not elapsed from the date of expiry of the sentence:

Provided that if a person has been convicted of any offence and sentenced in respect thereof to imprisonment for a period of seven years or more, he shall not be eligible to be appointed as a director in any company;

(e) an order disqualifying him for appointment as a director has been passed by a court or Tribunal and the order is in force;

(f) he has not paid any calls in respect of any shares of the company held by him, whether alone or jointly with others, and six months have elapsed from the last day fixed for the payment of the call;

(g) he has been convicted of the offence dealing with related party transactions under section 188 at any time during the last preceding five years; or

(h) he has not complied with sub-section (3) of section 152.

¹[(i) he has not complied with the provisions of sub-section (1) of section 165.]

(2) No person who is or has been a director of a company which—

(a) has not filed financial statements or annual returns for any continuous period of three financial years; or

(b) has failed to repay the deposits accepted by it or pay interest thereon or to redeem any debentures on the due date or pay interest due thereon or pay any dividend declared and such failure to pay or redeem continues for one year or more,

shall be eligible to be re-appointed as a director of that company or appointed in other company for a period of five years from the date on which the said company fails to do so:

1. Ins. by Act 22 of 2019, s. 26 (w.e.f. 2-11-2018).

¹[Provided that where a person is appointed as a director of a company which is in default of clause (a) or clause (b), he shall not incur the disqualification for a period of six months from the date of his appointment.]

(3) A private company may by its articles provide for any disqualifications for appointment as a director in addition to those specified in sub-sections (1) and (2).

²[Provided that the disqualifications referred to in clauses (d), (e) and (g) of sub-section (1) shall continue to apply even if the appeal or petition has been filed against the order of conviction or disqualification.]

165. Number of directorships.—(1) No person, after the commencement of this Act, shall hold office as a director, including any alternate directorship, in more than twenty companies at the same time:

Provided that the maximum number of public companies in which a person can be appointed as a director shall not exceed ten.

³[*Explanation I*].—For reckoning the limit of public companies in which a person can be appointed as director, directorship in private companies that are either holding or subsidiary company of a public company shall be included.

⁴[*Explanation II*.—For reckoning the limit of directorships of twenty companies, the directorship in a dormant company shall not be included.]

(2) Subject to the provisions of sub-section (1), the members of a company may, by special resolution, specify any lesser number of companies in which a director of the company may act as directors.

(3) Any person holding office as director in companies more than the limits as specified in sub-section (1), immediately before the commencement of this Act shall, within a period of one year from such commencement,—

(a) choose not more than the specified limit of those companies, as companies in which he wishes to continue to hold the office of director;

(b) resign his office as director in the other remaining companies; and

(c) intimate the choice made by him under clause (a), to each of the companies in which he was holding the office of director before such commencement and to the Registrar having jurisdiction in respect of each such company.

(4) Any resignation made in pursuance of clause (b) of sub-section (3) shall become effective immediately on the despatch thereof to the company concerned.

(5) No such person shall act as director in more than the specified number of companies,—

(a) after despatching the resignation of his office as director or non-executive director thereof, in pursuance of clause (b) of sub-section (3); or

(b) after the expiry of one year from the commencement of this Act,

whichever is earlier.

⁵[(6) If a person accepts an appointment as a director in violation of this section, he shall be liable to a penalty of two thousand rupees for each day after the first during which such violation continues, subject to a maximum of two lakh rupees.]

166. Duties of directors.—(1) Subject to the provisions of this Act, a director of a company shall act in accordance with the articles of the company.

1. The proviso ins. by Act 1 of 2018, s. 52 (w.e.f. 7-5-2018).

2. The proviso subs. by Act 1 of 2018, s. 52 (w.e.f. 7-5-2018).

3. The *Explanation* renumbered as *Explanation I* thereof by s. 53, *ibid.* (w.e.f. 9-2-2018).

4. Ins. by s. 53, *ibid.* (w.e.f. 9-2-2018).

5. Subs. by Act 29 of 2020, s. 33, for sub-section (6) (w.e.f. 21-12-2020).

(2) A director of a company shall act in good faith in order to promote the objects of the company for the benefit of its members as a whole, and in the best interests of the company, its employees, the shareholders, the community and for the protection of environment.

(3) A director of a company shall exercise his duties with due and reasonable care, skill and diligence and shall exercise independent judgment.

(4) A director of a company shall not involve in a situation in which he may have a direct or indirect interest that conflicts, or possibly may conflict, with the interest of the company.

(5) A director of a company shall not achieve or attempt to achieve any undue gain or advantage either to himself or to his relatives, partners, or associates and if such director is found guilty of making any undue gain, he shall be liable to pay an amount equal to that gain to the company.

(6) A director of a company shall not assign his office and any assignment so made shall be void.

(7) If a director of the company contravenes the provisions of this section such director shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

167. Vacation of office of director.—(1) The office of a director shall become vacant in case—

(a) he incurs any of the disqualifications specified in section 164:

¹[Provided that where he incurs disqualification under sub-section (2) of section 164, the office of the director shall become vacant in all the companies, other than the company which is in default under that sub-section];

(b) he absents himself from all the meetings of the Board of Directors held during a period of twelve months with or without seeking leave of absence of the Board;

(c) he acts in contravention of the provisions of section 184 relating to entering into contracts or arrangements in which he is directly or indirectly interested;

(d) he fails to disclose his interest in any contract or arrangement in which he is directly or indirectly interested, in contravention of the provisions of section 184;

(e) he becomes disqualified by an order of a court or the Tribunal;

(f) he is convicted by a court of any offence, whether involving moral turpitude or otherwise and sentenced in respect thereof to imprisonment for not less than six months:

²[Provided that the office shall not be vacated by the director in case of orders referred to in clauses (e) and (f)—

(i) for thirty days from the date of conviction or order of disqualification;

(ii) where an appeal or petition is preferred within thirty days as aforesaid against the conviction resulting in sentence or order, until expiry of seven days from the date on which such appeal or petition is disposed of; or

(iii) where any further appeal or petition is preferred against order or sentence within seven days, until such further appeal or petition is disposed of.]

(g) he is removed in pursuance of the provisions of this Act;

(h) he, having been appointed a director by virtue of his holding any office or other employment in the holding, subsidiary or associate company, ceases to hold such office or other employment in that company.

1. The proviso ins. by Act 1 of 2018, s. 54 (w.e.f. 7-5-2018).

2. The proviso subs. by Act 1 of 2018, s. 54 (w.e.f. 7-5-2018).

(2) If a person, functions as a director even when he knows that the office of director held by him has become vacant on account of any of the disqualifications specified in sub-section (1), he shall be punishable ^{1***} with fine which shall not be less than one lakh rupees but which may extend to ²[five lakh rupees].

(3) Where all the directors of a company vacate their offices under any of the disqualifications specified in sub-section (1), the promoter or, in his absence, the Central Government shall appoint the required number of directors who shall hold office till the directors are appointed by the company in the general meeting.

(4) A private company may, by its articles, provide any other ground for the vacation of the office of a director in addition to those specified in sub-section (1).

168. Resignation of director.—(1) A director may resign from his office by giving a notice in writing to the company and the Board shall on receipt of such notice take note of the same and the company shall intimate the Registrar in such manner, within such time and in such form as may be prescribed and shall also place the fact of such resignation in the report of directors laid in the immediately following general meeting by the company:

Provided that a ³[director may also forward] a copy of his resignation along with detailed reasons for the resignation to the Registrar within thirty days of resignation in such manner as may be prescribed.

(2) The resignation of a director shall take effect from the date on which the notice is received by the company or the date, if any, specified by the director in the notice, whichever is later:

Provided that the director who has resigned shall be liable even after his resignation for the offences which occurred during his tenure.

(3) Where all the directors of a company resign from their offices, or vacate their offices under section 167, the promoter or, in his absence, the Central Government shall appoint the required number of directors who shall hold office till the directors are appointed by the company in general meeting.

169. Removal of directors.—(1) A company may, by ordinary resolution, remove a director, not being a director appointed by the Tribunal under section 242, before the expiry of the period of his office after giving him a reasonable opportunity of being heard:

⁴[Provided that an independent director re-appointed for second term under sub-section (10) of section 149 shall be removed by the company only by passing a special resolution and after giving him a reasonable opportunity of being heard:]

⁵[Provided further that] nothing contained in this sub-section shall apply where the company has availed itself of the option given to it under section 163 to appoint not less than two-thirds of the total number of directors according to the principle of proportional representation.

(2) A special notice shall be required of any resolution, to remove a director under this section, or to appoint somebody in place of a director so removed, at the meeting at which he is removed.

(3) On receipt of notice of a resolution to remove a director under this section, the company shall forthwith send a copy thereof to the director concerned, and the director, whether or not he is a member of the company, shall be entitled to be heard on the resolution at the meeting.

(4) Where notice has been given of a resolution to remove a director under this section and the director concerned makes with respect thereto representation in writing to the company and requests its notification to members of the company, the company shall, if the time permits it to do so,—

(a) in any notice of the resolution given to members of the company, state the fact of the representation having been made; and

(b) send a copy of the representation to every member of the company to whom notice of the meeting is sent (whether before or after receipt of the representation by the company),

1. The words “with imprisonment for a term which may extend to one year or” omitted by Act 29 of 2020, s. 34 (w.e.f. 21-12-2020).

2. Subs. by s. 34, *ibid.*, for “five lakh rupees, or with both” (w.e.f. 21-12-2020).

3. Subs. by Act 1 of 2018, s. 55, for “director shall also forward” (w.e.f. 7-5-2018).

4. The proviso ins. by Notification No. S.O. 768(E), dated 21st February, 2018 (w.e.f. 21-2-2018).

5. Subs. by *ibid.*, for “Provided that” (w.e.f. 21-2-2018).

and if a copy of the representation is not sent as aforesaid due to insufficient time or for the company's default, the director may without prejudice to his right to be heard orally require that the representation shall be read out at the meeting:

Provided that copy of the representation need not be sent out and the representation need not be read out at the meeting if, on the application either of the company or of any other person who claims to be aggrieved, the Tribunal is satisfied that the rights conferred by this sub-section are being abused to secure needless publicity for defamatory matter; and the Tribunal may order the company's costs on the application to be paid in whole or in part by the director notwithstanding that he is not a party to it.

(5) A vacancy created by the removal of a director under this section may, if he had been appointed by the company in general meeting or by the Board, be filled by the appointment of another director in his place at the meeting at which he is removed, provided special notice of the intended appointment has been given under sub-section (2).

(6) A director so appointed shall hold office till the date up to which his predecessor would have held office if he had not been removed.

(7) If the vacancy is not filled under sub-section (5), it may be filled as a casual vacancy in accordance with the provisions of this Act:

Provided that the director who was removed from office shall not be re-appointed as a director by the Board of Directors.

(8) Nothing in this section shall be taken—

(a) as depriving a person removed under this section of any compensation or damages payable to him in respect of the termination of his appointment as director as per the terms of contract or terms of his appointment as director, or of any other appointment terminating with that as director; or

(b) as derogating from any power to remove a director under other provisions of this Act.

170. Register of directors and key managerial personnel and their shareholding.—(1) Every company shall keep at its registered office a register containing such particulars of its directors and key managerial personnel as may be prescribed, which shall include the details of securities held by each of them in the company or its holding, subsidiary, subsidiary of company's holding company or associate companies.

(2) A return containing such particulars and documents as may be prescribed, of the directors and the key managerial personnel shall be filed with the Registrar within thirty days from the appointment of every director and key managerial personnel, as the case may be, and within thirty days of any change taking place.

171. Members' right to inspect.—(1) The register kept under sub-section (1) of section 170,—

(a) shall be open for inspection during business hours and the members shall have a right to take extracts therefrom and copies thereof, on a request by the members, be provided to them free of cost within thirty days; and

(b) shall also be kept open for inspection at every annual general meeting of the company and shall be made accessible to any person attending the meeting.

(2) If any inspection as provided in clause (a) of sub-section (1) is refused, or if any copy required under that clause is not sent within thirty days from the date of receipt of such request, the Registrar shall on an application made to him order immediate inspection and supply of copies required thereunder.

¹[172. Penalty.]— If a company is in default in complying with any of the provisions of this Chapter and for which no specific penalty or punishment is provided therein, the company and every officer of the company who is in default shall be liable to a penalty of fifty thousand rupees, and in case of continuing failure, with a further penalty of five hundred rupees for each day during which such failure continues, subject to a maximum of three lakh rupees in case of a company and one lakh rupees in case of an officer who is in default.]

1. Subs. by Act 29 of 2020, s. 35, for section 35 (w.e.f. 21-12-2020).

CHAPTER XII

MEETINGS OF BOARD AND ITS POWERS

173. Meetings of Board.—(1) Every company shall hold the first meeting of the Board of Directors within thirty days of the date of its incorporation and thereafter hold a minimum number of four meetings of its Board of Directors every year in such a manner that not more than one hundred and twenty days shall intervene between two consecutive meetings of the Board:

Provided that the Central Government may, by notification, direct that the provisions of this sub-section shall not apply in relation to any class or description of companies or shall apply subject to such exceptions, modifications or conditions as may be specified in the notification.

(2) The participation of directors in a meeting of the Board may be either in person or through video conferencing or other audio visual means, as may be prescribed, which are capable of recording and recognising the participation of the directors and of recording and storing the proceedings of such meetings along with date and time:

Provided that the Central Government may, by notification, specify such matters which shall not be dealt with in a meeting through video conferencing or other audio visual means.

¹[Provided further that where there is quorum in a meeting through physical presence of directors, any other director may participate through video conferencing or other audio visual means in such meeting on any matter specified under the first proviso.]

(3) A meeting of the Board shall be called by giving not less than seven days' notice in writing to every director at his address registered with the company and such notice shall be sent by hand delivery or by post or by electronic means:

Provided that a meeting of the Board may be called at shorter notice to transact urgent business subject to the condition that at least one independent director, if any, shall be present at the meeting:

Provided further that in case of absence of independent directors from such a meeting of the Board, decisions taken at such a meeting shall be circulated to all the directors and shall be final only on ratification thereof by at least one independent director, if any.

(4) Every officer of the company whose duty is to give notice under this section and who fails to do so shall be liable to a penalty of twenty-five thousand rupees.

(5) A One Person Company, small company and dormant company shall be deemed to have complied with the provisions of this section if at least one meeting of the Board of Directors has been conducted in each half of a calendar year and the gap between the two meetings is not less than ninety days:

Provided that nothing contained in this sub-section and in section 174 shall apply to One Person Company in which there is only one director on its Board of Directors.

174. Quorum for meetings of Board.—(1) The quorum for a meeting of the Board of Directors of a company shall be one-third of its total strength or two directors, whichever is higher, and the participation of the directors by video conferencing or by other audio visual means shall also be counted for the purposes of quorum under this sub-section.

(2) The continuing directors may act notwithstanding any vacancy in the Board; but, if and so long as their number is reduced below the quorum fixed by the Act for a meeting of the Board, the continuing directors or director may act for the purpose of increasing the number of directors to that fixed for the quorum, or of summoning a general meeting of the company and for no other purpose.

(3) Where at any time the number of interested directors exceeds or is equal to two-thirds of the total strength of the Board of Directors, the number of directors who are not interested directors and present at the meeting, being not less than two, shall be the quorum during such time.

1. The proviso ins. by Act 1 of 2018, s. 56 (w.e.f. 7-5-2018).

Explanation.—For the purposes of this sub-section, “interested director” means a director within the meaning of sub-section (2) of section 184.

(4) Where a meeting of the Board could not be held for want of quorum, then, unless the articles of the company otherwise provide, the meeting shall automatically stand adjourned to the same day at the same time and place in the next week or if that day is a national holiday, till the next succeeding day, which is not a national holiday, at the same time and place.

Explanation.—For the purposes of this section,—

- (i) any fraction of a number shall be rounded off as one;
- (ii) “total strength” shall not include directors whose places are vacant.

175. Passing of resolution by circulation.—(1) No resolution shall be deemed to have been duly passed by the Board or by a committee thereof by circulation, unless the resolution has been circulated in draft, together with the necessary papers, if any, to all the directors, or members of the committee, as the case may be, at their addresses registered with the company in India by hand delivery or by post or by courier, or through such electronic means as may be prescribed and has been approved by a majority of the directors or members, who are entitled to vote on the resolution:

Provided that, where not less than one-third of the total number of directors of the company for the time being require that any resolution under circulation must be decided at a meeting, the chairperson shall put the resolution to be decided at a meeting of the Board.

(2) A resolution under sub-section (1) shall be noted at a subsequent meeting of the Board or the committee thereof, as the case may be, and made part of the minutes of such meeting.

176. Defects in appointment of directors not to invalidate actions taken.—No act done by a person as a director shall be deemed to be invalid, notwithstanding that it was subsequently noticed that his appointment was invalid by reason of any defect or disqualification or had terminated by virtue of any provision contained in this Act or in the articles of the company:

Provided that nothing in this section shall be deemed to give validity to any act done by the director after his appointment has been noticed by the company to be invalid or to have terminated.

177. Audit Committee.—(1) The Board of Directors of ¹[every listed public company] and such other class or classes of companies, as may be prescribed, shall constitute an Audit Committee.

(2) The Audit Committee shall consist of a minimum of three directors with independent directors forming a majority:

Provided that majority of members of Audit Committee including its Chairperson shall be persons with ability to read and understand, the financial statement.

(3) Every Audit Committee of a company existing immediately before the commencement of this Act shall, within one year of such commencement, be reconstituted in accordance with sub-section (2).

(4) Every Audit Committee shall act in accordance with the terms of reference specified in writing by the Board which shall, *inter alia*, include,—

- (i) the recommendation for appointment, remuneration and terms of appointment of auditors of the company;
- (ii) review and monitor the auditor’s independence and performance, and effectiveness of audit process;
- (iii) examination of the financial statement and the auditors’ report thereon;
- (iv) approval or any subsequent modification of transactions of the company with related parties:

1. Subs. by Act 1 of 2018, s. 57, for “every listed company” (w.e.f. 7-5-2018).

¹[Provided that the Audit Committee may make omnibus approval for related party transactions proposed to be entered into by the company subject to such conditions as may be prescribed;]

²[Provided further that in case of transaction, other than transactions referred to in section 188, and where Audit Committee does not approve the transaction, it shall make its recommendations to the Board:

Provided also that in case any transaction involving any amount not exceeding one crore rupees is entered into by a director or officer of the company without obtaining the approval of the Audit Committee and it is not ratified by the Audit Committee within three months from the date of the transaction, such transaction shall be voidable at the option of the Audit Committee and if the transaction is with the related party to any director or is authorised by any other director, the director concerned shall indemnify the company against any loss incurred by it:

Provided also that the provisions of this clause shall not apply to a transaction, other than a transaction referred to in section 188, between a holding company and its wholly owned subsidiary company.]

- (v) scrutiny of inter-corporate loans and investments;
- (vi) valuation of undertakings or assets of the company, wherever it is necessary;
- (vii) evaluation of internal financial controls and risk management systems;
- (viii) monitoring the end use of funds raised through public offers and related matters.

(5) The Audit Committee may call for the comments of the auditors about internal control systems, the scope of audit, including the observations of the auditors and review of financial statement before their submission to the Board and may also discuss any related issues with the internal and statutory auditors and the management of the company.

(6) The Audit Committee shall have authority to investigate into any matter in relation to the items specified in sub-section (4) or referred to it by the Board and for this purpose shall have power to obtain professional advice from external sources and have full access to information contained in the records of the company.

(7) The auditors of a company and the key managerial personnel shall have a right to be heard in the meetings of the Audit Committee when it considers the auditor's report but shall not have the right to vote.

(8) The Board's report under sub-section (3) of section 134 shall disclose the composition of an Audit Committee and where the Board had not accepted any recommendation of the Audit Committee, the same shall be disclosed in such report along with the reasons therefor.

(9) Every listed company or such class or classes of companies, as may be prescribed, shall establish a vigil mechanism for directors and employees to report genuine concerns in such manner as may be prescribed.

(10) The vigil mechanism under sub-section (9) shall provide for adequate safeguards against victimisation of persons who use such mechanism and make provision for direct access to the chairperson of the Audit Committee in appropriate or exceptional cases:

Provided that the details of establishment of such mechanism shall be disclosed by the company on its website, if any, and in the Board's report.

178. Nomination and Remuneration Committee and Stakeholders Relationship Committee.—(1) The Board of Directors of ³[every listed public company] and such other class or classes of companies, as may be prescribed shall constitute the Nomination and Remuneration Committee consisting of three or more non-executive directors out of which not less than one-half shall be independent directors:

1. The proviso ins. by Act 21 of 2015, s. 14 (w.e.f. 14-12-2015).

2. Ins. by Act 1 of 2018, s. 57 (w.e.f. 7-5-2018).

3. Subs. by Act 1 of 2018, s. 58, for "every listed company" (w.e.f. 7-5-2018).

Provided that the chairperson of the company (whether executive or non-executive) may be appointed as a member of the Nomination and Remuneration Committee but shall not chair such Committee.

(2) The Nomination and Remuneration Committee shall identify persons who are qualified to become directors and who may be appointed in senior management in accordance with the criteria laid down, recommend to the Board their appointment and removal and ¹[shall specify the manner for effective evaluation of performance of Board, its committees and individual directors to be carried out either by the Board, by the Nomination and Remuneration Committee or by an independent external agency and review its implementation and compliance].

(3) The Nomination and Remuneration Committee shall formulate the criteria for determining qualifications, positive attributes and independence of a director and recommend to the Board a policy, relating to the remuneration for the directors, key managerial personnel and other employees.

(4) The Nomination and Remuneration Committee shall, while formulating the policy under sub-section (3) ensure that—

(a) the level and composition of remuneration is reasonable and sufficient to attract, retain and motivate directors of the quality required to run the company successfully;

(b) relationship of remuneration to performance is clear and meets appropriate performance benchmarks; and

(c) remuneration to directors, key managerial personnel and senior management involves a balance between fixed and incentive pay reflecting short and long-term performance objectives appropriate to the working of the company and its goals:

²[Provided that such policy shall be placed on the website of the company, if any, and the salient features of the policy and changes therein, if any, along with the web address of the policy, if any, shall be disclosed in the Board's report.]

(5) The Board of Directors of a company which consists of more than one thousand shareholders, debenture-holders, deposit-holders and any other security holders at anytime during a financial year shall constitute a Stakeholders Relationship Committee consisting of a chairperson who shall be a non-executive director and such other members as may be decided by the Board.

(6) The Stakeholders Relationship Committee shall consider and resolve the grievances of security holders of the company.

(7) The chairperson of each of the committees constituted under this section or, in his absence, any other member of the committee authorised by him in this behalf shall attend the general meetings of the company.

(8) In case of any contravention of the provisions of section 177 and this section, the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees and every officer of the company who is in default shall be ³[liable to a penalty of five lakh rupees and every officer of the company who is in default shall be liable to a penalty of one lakh rupees]:

Provided that ⁴[inability to resolve or consider any grievance] by the Stakeholders Relationship Committee in good faith shall not constitute a contravention of this section.

Explanation.—The expression “senior management” means personnel of the company who are members of its core management team excluding Board of Directors comprising all members of management one level below the executive directors, including the functional heads.

179. Powers of Board.—(1) The Board of Directors of a company shall be entitled to exercise all such powers, and to do all such acts and things, as the company is authorised to exercise and do:

1. Subs. by s. 58, *ibid.*, for “shall carry out evaluation of every director's performance” (w.e.f. 7-5-2018).

2. Subs. by Act 1 of 2018, s. 58, for the proviso (w.e.f. 7-5-2018).

3. Subs. by Act 29 of 2020, s. 36, for certain words (w.e.f. 21-12-2020).

4. Subs. by Act 1 of 2018, s. 58, for “non-consideration of resolution of any grievance” (w.e.f. 7-5-2018).

Provided that in exercising such power or doing such act or thing, the Board shall be subject to the provisions contained in that behalf in this Act, or in the memorandum or articles, or in any regulations not inconsistent therewith and duly made thereunder, including regulations made by the company in general meeting:

Provided further that the Board shall not exercise any power or do any act or thing which is directed or required, whether under this Act or by the memorandum or articles of the company or otherwise, to be exercised or done by the company in general meeting.

(2) No regulation made by the company in general meeting shall invalidate any prior act of the Board which would have been valid if that regulation had not been made.

(3) The Board of Directors of a company shall exercise the following powers on behalf of the company by means of resolutions passed at meetings of the Board, namely:—

- (a) to make calls on shareholders in respect of money unpaid on their shares;
- (b) to authorise buy-back of securities under section 68;
- (c) to issue securities, including debentures, whether in or outside India;
- (d) to borrow monies;
- (e) to invest the funds of the company;
- (f) to grant loans or give guarantee or provide security in respect of loans;
- (g) to approve financial statement and the Board's report;
- (h) to diversify the business of the company;
- (i) to approve amalgamation, merger or reconstruction;
- (j) to take over a company or acquire a controlling or substantial stake in another company;
- (k) any other matter which may be prescribed:

Provided that the Board may, by a resolution passed at a meeting, delegate to any committee of directors, the managing director, the manager or any other principal officer of the company or in the case of a branch office of the company, the principal officer of the branch office, the powers specified in clauses (d) to (f) on such conditions as it may specify:

Provided further that the acceptance by a banking company in the ordinary course of its business of deposits of money from the public repayable on demand or otherwise and withdraw able by cheque, draft, order or otherwise, or the placing of monies on deposit by a banking company with another banking company on such conditions as the Board may prescribe, shall not be deemed to be a borrowing of monies or, as the case may be, a making of loans by a banking company within the meaning of this section.

Explanation I.—Nothing in clause (d) shall apply to borrowings by a banking company from other banking companies or from the Reserve Bank of India, the State Bank of India or any other banks established by or under any Act.

Explanation II.—In respect of dealings between a company and its bankers, the exercise by the company of the power specified in clause (d) shall mean the arrangement made by the company with its bankers for the borrowing of money by way of overdraft or cash credit or otherwise and not the actual day-to-day operation on overdraft, cash credit or other accounts by means of which the arrangement so made is actually availed of.

(4) Nothing in this section shall be deemed to affect the right of the company in general meeting to impose restrictions and conditions on the exercise by the Board of any of the powers specified in this section.

180. Restrictions on powers of Board.—(1) The Board of Directors of a company shall exercise the following powers only with the consent of the company by a special resolution, namely:—

(a) to sell, lease or otherwise dispose of the whole or substantially the whole of the undertaking of the company or where the company owns more than one undertaking, of the whole or substantially the whole of any of such undertakings.

Explanation.—For the purposes of this clause,—

(i) “undertaking” shall mean an undertaking in which the investment of the company exceeds twenty per cent. of its net worth as per the audited balance sheet of the preceding financial year or an undertaking which generates twenty per cent. of the total income of the company during the previous financial year;

(ii) the expression “substantially the whole of the undertaking” in any financial year shall mean twenty per cent. or more of the value of the undertaking as per the audited balance sheet of the preceding financial year;

(b) to invest otherwise in trust securities the amount of compensation received by it as a result of any merger or amalgamation;

(c) to borrow money, where the money to be borrowed, together with the money already borrowed by the company will exceed aggregate of its ¹[paid-up share capital, free reserves and securities premium], apart from temporary loans obtained from the company’s bankers in the ordinary course of business:

Provided that the acceptance by a banking company, in the ordinary course of its business, of deposits of money from the public, repayable on demand or otherwise, and withdraw able by cheque, draft, order or otherwise, shall not be deemed to be a borrowing of monies by the banking company within the meaning of this clause.

Explanation.—For the purposes of this clause, the expression “temporary loans” means loans repayable on demand or within six months from the date of the loan such as short-term, cash credit arrangements, the discounting of bills and the issue of other short-term loans of a seasonal character, but does not include loans raised for the purpose of financial expenditure of a capital nature;

(d) to remit, or give time for the repayment of, any debt due from a director.

(2) Every special resolution passed by the company in general meeting in relation to the exercise of the powers referred to in clause (c) of sub-section (1) shall specify the total amount up to which monies may be borrowed by the Board of Directors.

(3) Nothing contained in clause (a) of sub-section (1) shall affect—

(a) the title of a buyer or other person who buys or takes on lease any property, investment or undertaking as is referred to in that clause, in good faith; or

(b) the sale or lease of any property of the company where the ordinary business of the company consists of, or comprises, such selling or leasing.

(4) Any special resolution passed by the company consenting to the transaction as is referred to in clause (a) of sub-section (1) may stipulate such conditions as may be specified in such resolution, including conditions regarding the use, disposal or investment of the sale proceeds which may result from the transactions:

Provided that this sub-section shall not be deemed to authorise the company to effect any reduction in its capital except in accordance with the provisions contained in this Act.

(5) No debt incurred by the company in excess of the limit imposed by clause (c) of sub-section (1) shall be valid or effectual, unless the lender proves that he advanced the loan in good faith and without knowledge that the limit imposed by that clause had been exceeded.

181. Company to contribute to *bona fide* and charitable funds, etc.—The Board of Directors of a company may contribute to *bona fide* charitable and other funds:

1. Subs. by Act 1 of 2018, s. 59, for “paid-up share capital and free reserves” (w.e.f. 9-2-2018).

Provided that prior permission of the company in general meeting shall be required for such contribution in case any amount the aggregate of which, in any financial year, exceed five per cent. of its average net profits for the three immediately preceding financial years.

182. Prohibitions and restrictions regarding political contributions.—(1) Notwithstanding anything contained in any other provision of this Act, a company, other than a Government company and a company which has been in existence for less than three financial years, may contribute any amount directly or indirectly to any political party:

* * * *

Provided ^{2***} that no such contribution shall be made by a company unless a resolution authorising the making of such contribution is passed at a meeting of the Board of Directors and such resolution shall, subject to the other provisions of this section, be deemed to be justification in law for the making ^{3***} of the contribution authorised by it.

(2) Without prejudice to the generality of the provisions of sub-section (1),—

(a) a donation or subscription or payment caused to be given by a company on its behalf or on its account to a person who, to its knowledge, is carrying on any activity which, at the time at which such donation or subscription or payment was given or made, can reasonably be regarded as likely to affect public support for apolitical party shall also be deemed to be contribution of the amount of such donation, subscription or payment to such person for a political purpose;

(b) the amount of expenditure incurred, directly or indirectly, by a company on an advertisement in any publication, being a publication in the nature of a souvenir, brochure, tract, pamphlet or the like, shall also be deemed,—

(i) where such publication is by or on behalf of a political party, to be a contribution of such amount to such political party, and

(ii) where such publication is not by or on behalf of, but for the advantage of a political party, to be a contribution for a political purpose.

⁴[(3) Every company shall disclose in its profit and loss account the total amount contributed by it under this section during the financial year to which the account relates.

(3A) Notwithstanding anything contained in sub-section (1), the contribution under this section shall not be made except by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account:

Provided that a company may make contribution through any instrument, issued pursuant to any scheme notified under any law for the time being in force, for contribution to the political parties.]

(4) If a company makes any contribution in contravention of the provisions of this section, the company shall be punishable with fine which may extend to five times the amount so contributed and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to six months and with fine which may extend to five times the amount so contributed.

Explanation.—For the purposes of this section, “political party” means a political party registered under section 29A of the Representation of the People Act, 1951 (43 of 1951).

183. Power of Board and other persons to make contributions to national defence fund, etc.—(1) The Board of Directors of any company or any person or authority exercising the powers of the Board of Directors of a company, or of the company in general meeting, may, notwithstanding anything contained in sections 180, 181 and section 182 or any other provision of this Act or in the memorandum, articles or any other instrument relating to the company, contribute such amount as it thinks fit to the National Defence Fund or any other Fund approved by the Central Government for the purpose of national defence.

(2) Every company shall disclose in its profits and loss account the total amount or amounts contributed by it to the Fund referred to in sub-section (1) during the financial year to which the amount relates.

1. The proviso omitted by Act 7 of 2017, s. 154 (w.e.f. 31-3-2017).

2. The word “further” omitted by Act 7 of 2017, s. 154 (w.e.f. 31-3-2017).

3. The words “and the acceptance” omitted by s. 154, *ibid.* (w.e.f. 31-3-2017).

4. Subs. by s. 154, *ibid.* for sub-section (3) (w.e.f. 31-3-2017).

184. Disclosure of interest by director.—(1) Every director shall at the first meeting of the Board in which he participates as a director and thereafter at the first meeting of the Board in every financial year or whenever there is any change in the disclosures already made, then at the first Board meeting held after such change, disclose his concern or interest in any company or companies or bodies corporate, firms, or other association of individuals which shall include the shareholding, in such manner as may be prescribed.

(2) Every director of a company who is in any way, whether directly or indirectly, concerned or interested in a contract or arrangement or proposed contract or arrangement entered into or to be entered into—

(a) with a body corporate in which such director or such director in association with any other director, holds more than two per cent. shareholding of that body corporate, or is a promoter, manager, Chief Executive Officer of that body corporate; or

(b) with a firm or other entity in which, such director is a partner, owner or member, as the case may be,

shall disclose the nature of his concern or interest at the meeting of the Board in which the contract or arrangement is discussed and shall not participate in such meeting:

Provided that where any director who is not so concerned or interested at the time of entering into such contract or arrangement, he shall, if he becomes concerned or interested after the contract or arrangement is entered into, disclose his concern or interest forthwith when he becomes concerned or interested or at the first meeting of the Board held after he becomes so concerned or interested.

(3) A contract or arrangement entered into by the company without disclosure under sub-section (2) or with participation by a director who is concerned or interested in any way, directly or indirectly, in the contract or arrangement, shall be voidable at the option of the company.

(4) If a director of the company contravenes the provisions of sub-section (1) or sub-section (2), such director shall be ¹[liable to a penalty of one lakh rupees].

(5) Nothing in this section—

(a) shall be taken to prejudice the operation of any rule of law restricting a director of a company from having any concern or interest in any contract or arrangement with the company;

²[(b) shall apply to any contract or arrangement entered into or to be entered into between two companies or between one or more companies and one or more bodies corporate where any of the directors of the one company or body corporate or two or more of them together holds or hold not more than two per cent. of the paid-up share capital in the other company or the body corporate.]

³**[185. Loans to directors, etc.]**—(1) No company shall, directly or indirectly, advance any loan, including any loan represented by a book debt to, or give any guarantee or provide any security in connection with any loan taken by,—

(a) any director of company, or of a company which is its holding company or any partner or relative of any such director; or

(b) any firm in which any such director or relative is a partner.

(2) A company may advance any loan including any loan represented by a book debt, or give any guarantee or provide any security in connection with any loan taken by any person in whom any of the director of the company is interested, subject to the condition that—

(a) a special resolution is passed by the company in general meeting:

Provided that the explanatory statement to the notice for the relevant general meeting shall disclose the full particulars of the loans given, or guarantee given or security provided and the purpose for which

1. Subs. by Act 29 of 2020, s. 37, for certain words (w.e.f. 21-12-2020).

2. Subs. by Act 1 of 2018, s. 60, for clause (b) (w.e.f. 9-2-2018).

3. Subs. by s. 61, *ibid.*, for section 185 (w.e.f. 7-5-2018).

the loan or guarantee or security is proposed to be utilised by the recipient of the loan or guarantee or security and any other relevant fact; and

(b) the loans are utilised by the borrowing company for its principal business activities.

Explanation.—For the purposes of this sub-section, the expression “any person in whom any of the director of the company is interested” means—

(a) any private company of which any such director is a director or member;

(b) any body corporate at a general meeting of which not less than twenty-five per cent. of the total voting power may be exercised or controlled by any such director, or by two or more such directors, together; or

(c) any body corporate, the Board of directors, managing director or manager, whereof is accustomed to act in accordance with the directions or instructions of the Board, or of any director or directors, of the lending company.

(3) Nothing contained in sub-sections (1) and (2) shall apply to—

(a) the giving of any loan to a managing or whole-time director—

(i) as a part of the conditions of service extended by the company to all its employees; or

(ii) pursuant to any scheme approved by the members by a special resolution; or

(b) a company which in the ordinary course of its business provides loans or gives guarantees or securities for the due repayment of any loan and in respect of such loans an interest is charged at a rate not less than the rate of prevailing yield of one year, three years, five years or ten years Government security closest to the tenor of the loan; or

(c) any loan made by a holding company to its wholly owned subsidiary company or any guarantee given or security provided by a holding company in respect of any loan made to its wholly owned subsidiary company; or

(d) any guarantee given or security provided by a holding company in respect of loan made by any bank or financial institution to its subsidiary company:

Provided that the loans made under clauses (c) and (d) are utilised by the subsidiary company for its principal business activities.

(4) If any loan is advanced or a guarantee or security is given or provided or utilised in contravention of the provisions of this section,—

(i) the company shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees;

(ii) every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees; and

(iii) the director or the other person to whom any loan is advanced or guarantee or security is given or provided in connection with any loan taken by him or the other person, shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees, or with both.]

186. Loan and investment by company.—(1) Without prejudice to the provisions contained in this Act, a company shall unless otherwise prescribed, make investment through not more than two layers of investment companies:

Provided that the provisions of this sub-section shall not affect,—

(i) a company from acquiring any other company incorporated in a country outside India if such other company has investment subsidiaries beyond two layers as per the laws of such country;

(ii) a subsidiary company from having any investment subsidiary for the purposes of meeting the requirements under any law or under any rule or regulation framed under any law for the time being in force.

(2) No company shall directly or indirectly —

(a) give any loan to any person or other body corporate;

(b) give any guarantee or provide security in connection with a loan to any other body corporate or person; and

(c) acquire by way of subscription, purchase or otherwise, the securities of any other body corporate,

exceeding sixty per cent. of its paid-up share capital, free reserves and securities premium account or one hundred per cent. of its free reserves and securities premium account, whichever is more.

¹[Explanation.—For the purposes of this sub-section, the word “person” does not include any individual who is in the employment of the company.]

²[(3) Where the aggregate of the loans and investment so far made, the amount for which guarantee or security so far provided to or in all other bodies corporate along with the investment, loan, guarantee or security proposed to be made or given by the Board, exceed the limits specified under sub-section (2), no investment or loan shall be made or guarantee shall be given or security shall be provided unless previously authorised by a special resolution passed in a general meeting:

Provided that where a loan or guarantee is given or where a security has been provided by a company to its wholly owned subsidiary company or a joint venture company, or acquisition is made by a holding company, by way of subscription, purchase or otherwise of, the securities of its wholly owned subsidiary company, the requirement of this sub-section shall not apply:

Provided further that the company shall disclose the details of such loans or guarantee or security or acquisition in the financial statement as provided under sub-section (4).]

(4) The company shall disclose to the members in the financial statement the full particulars of the loans given, investment made or guarantee given or security provided and the purpose for which the loan or guarantee or security is proposed to be utilised by the recipient of the loan or guarantee or security.

(5) No investment shall be made or loan or guarantee or security given by the company unless the resolution sanctioning it is passed at a meeting of the Board with the consent of all the directors present at the meeting and the prior approval of the public financial institution concerned where any term loan is subsisting, is obtained:

Provided that prior approval of a public financial institution shall not be required where the aggregate of the loans and investments so far made, the amount for which guarantee or security so far provided to or in all other bodies corporate, along with the investments, loans, guarantee or security proposed to be made or given does not exceed the limit as specified in sub-section (2), and there is no default in repayment of loan instalments or payment of interest thereon as per the terms and conditions of such loan to the public financial institution.

(6) No company, which is registered under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) and covered under such class or classes of companies as may be prescribed, shall take inter-corporate loan or deposits exceeding the prescribed limit and such company shall furnish in its financial statement the details of the loan or deposits.

(7) No loan shall be given under this section at a rate of interest lower than the prevailing yield of one year, three year, five year or ten year Government Security closest to the tenor of the loan.

1. Ins. by Act 1 of 2018, s. 62 (w.e.f. 7-5-2018).

2. Subs. by s. 62, *ibid.*, for sub-section (3) (w.e.f. 7-5-2018).

(8) No company which is in default in the repayment of any deposits accepted before or after the commencement of this Act or in payment of interest thereon, shall give any loan or give any guarantee or provide any security or make an acquisition till such default is subsisting.

(9) Every company giving loan or giving a guarantee or providing security or making an acquisition under this section shall keep a register which shall contain such particulars and shall be maintained in such manner as may be prescribed.

(10) The register referred to in sub-section (9) shall be kept at the registered office of the company and

—
(a) shall be open to inspection at such office; and

(b) extracts may be taken therefrom by any member, and copies thereof may be furnished to any member of the company on payment of such fees as may be prescribed.

¹[(11) Nothing contained in this section, except sub-section (1), shall apply—

(a) to any loan made, any guarantee given or any security provided or any investment made by a banking company, or an insurance company, or a housing finance company in the ordinary course of its business, or a company established with the object of and engaged in the business of financing industrial enterprises, or of providing infrastructural facilities;

(b) to any investment—

(i) made by an investment company;

(ii) made in shares allotted in pursuance of clause (a) of sub-section (1) of section 62 or in shares allotted in pursuance of rights issues made by a body corporate;

(iii) made, in respect of investment or lending activities, by a non-banking financial company registered under Chapter III-B of the Reserve Bank of India Act, 1934 (2 of 1934) and whose principal business is acquisition of securities.]

(12) The Central Government may make rules for the purposes of this section.

(13) If a company contravenes the provisions of this section, the company shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to two years and with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

Explanation.—For the purposes of this section,—

(a) the expression “investment company” means a company whose principal business is the acquisition of shares, debentures or other securities ²[and a company will be deemed to be principally engaged in the business of acquisition of shares, debentures or other securities, if its assets in the form of investment in shares, debentures or other securities constitute not less than fifty per cent. of its total assets, or if its income derived from investment business constitutes not less than fifty per cent. as a proportion of its gross income.];

(b) the expression “infrastructure facilities” means the facilities specified in Schedule VI.

187. Investments of company to be held in its own name.—(1) All investments made or held by a company in any property, security or other asset shall be made and held by it in its own name:

Provided that the company may hold any shares in its subsidiary company in the name of any nominee or nominees of the company, if it is necessary to do so, to ensure that the number of members of the subsidiary company is not reduced below the statutory limit.

(2) Nothing in this section shall be deemed to prevent a company—

1. Subs. by Act 1 of 2018, s. 62, for sub-section (11) (w.e.f. 7-5-2018).

2. Ins. by Act 1 of 2018, s. 62 (w.e.f. 7-5-2018).

(a) from depositing with a bank, being the bankers of the company, any shares or securities for the collection of any dividend or interest payable thereon; or

(b) from depositing with, or transferring to, or holding in the name of, the State Bank of India or a scheduled bank, being the bankers of the company, shares or securities, in order to facilitate the transfer thereof:

Provided that if within a period of six months from the date on which the shares or securities are transferred by the company to, or are first held by the company in the name of, the State Bank of India or a scheduled bank as aforesaid, no transfer of such shares or securities takes place, the company shall, as soon as practicable after the expiry of that period, have the shares or securities re-transferred to it from the State Bank of India or the scheduled bank or, as the case may be, again hold the shares or securities in its own name; or

(c) from depositing with, or transferring to, any person any shares or securities, by way of security for the repayment of any loan advanced to the company or the performance of any obligation undertaken by it;

(d) from holding investments in the name of a depository when such investments are in the form of securities held by the company as a beneficial owner.

(3) Where in pursuance of clause (d) of sub-section (2), any shares or securities in which investments have been made by a company are not held by it in its own name, the company shall maintain a register which shall contain such particulars as may be prescribed and such register shall be open to inspection by any member or debenture-holder of the company without any charge during business hours subject to such reasonable restrictions as the company may by its articles or in general meeting impose.

¹[(4) If a company is in default in complying with the provisions of this section, the company shall be liable to a penalty of five lakh rupees and every officer of the company who is in default shall be liable to a penalty of fifty thousand rupees.]

188. Related party transactions.— (1) Except with the consent of the Board of Directors given by a resolution at a meeting of the Board and subject to such conditions as may be prescribed, no company shall enter into any contract or arrangement with a related party with respect to—

(a) sale, purchase or supply of any goods or materials;

(b) selling or otherwise disposing of, or buying, property of any kind;

(c) leasing of property of any kind;

(d) availing or rendering of any services;

(e) appointment of any agent for purchase or sale of goods, materials, services or property;

(f) such related party's appointment to any office or place of profit in the company, its subsidiary company or associate company; and

(g) underwriting the subscription of any securities or derivatives thereof, of the company:

Provided that no contract or arrangement, in the case of a company having a paid-up share capital of not less than such amount, or transactions exceeding such sums, as may be prescribed, shall be entered into except with the prior approval of the company by a²[resolution]:

Provided further that no member of the company shall vote on such ¹[resolution], to approve any contract or arrangement which may be entered into by the company, if such member is a related party:

³[Provided also that nothing contained in the second proviso shall apply to a company in which ninety per cent. or more members, in number, are relatives of promoters or are related parties:]

1. Subs. by Act 29 of 2020, s. 38, for sub-section (4) (w.e.f. 21-12-2020).

2. Subs. by Act 21 of 2015, s. 16, for “special resolution” (w.e.f. 29-5-2015).

3. The proviso ins. by Act 1 of 2018, s. 63 (w.e.f. 9-2-2018).

Provided also that nothing in this sub-section shall apply to any transactions entered into by the company in its ordinary course of business other than transactions which are not on an arm's length basis:

¹[Provided also that the requirement of passing the resolution under first proviso shall not be applicable for transactions entered into between a holding company and its wholly owned subsidiary whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval.]

Explanation.— In this sub-section,—

(a) the expression “office or place of profit” means any office or place—

(i) where such office or place is held by a director, if the director holding it receives from the company anything by way of remuneration over and above the remuneration to which he is entitled as director, by way of salary, fee, commission, perquisites, any rent-free accommodation, or otherwise;

(ii) where such office or place is held by an individual other than a director or by any firm, private company or other body corporate, if the individual, firm, private company or body corporate holding it receives from the company anything by way of remuneration, salary, fee, commission, perquisites, any rent-free accommodation, or otherwise;

(b) the expression “arm's length transaction” means a transaction between two related parties that is conducted as if they were unrelated, so that there is no conflict of interest.

(2) Every contract or arrangement entered into under sub-section (1) shall be referred to in the Board's report to the shareholders along with the justification for entering into such contract or arrangement.

(3) Where any contract or arrangement is entered into by a director or any other employee, without obtaining the consent of the Board or approval by a ¹[resolution] in the general meeting under sub-section (1) and if it is not ratified by the Board or, as the case may be, by the shareholders at a meeting within three months from the date on which such contract or arrangement was entered into, such contract or arrangement ²[shall be voidable at the option of the Board or, as the case may be, of the shareholders] and if the contract or arrangement is with a related party to any director, or is authorised by any other director, the directors concerned shall indemnify the company against any loss incurred by it.

(4) Without prejudice to anything contained in sub-section (3), it shall be open to the company to proceed against a director or any other employee who had entered into such contract or arrangement in contravention of the provisions of this section for recovery of any loss sustained by it as a result of such contract or arrangement.

(5) Any director or any other employee of a company, who had entered into or authorized the contract or arrangement in violation of the provisions of this section shall,—

(i) in case of listed company, be ³[liable to a penalty of twenty-five lakh rupees]; and

(ii) in case of any other company, be ⁴[liable to a penalty of five lakh rupees]].

189. Register of contracts or arrangements in which directors are interested.—(1) Every company shall keep one or more registers giving separately the particulars of all contracts or arrangements to which sub-section (2) of section 184 or section 188 applies, in such manner and containing such particulars as may be prescribed and after entering the particulars, such register or registers shall be placed before the next meeting of the Board and signed by all the directors present at the meeting.

(2) Every director or key managerial personnel shall, within a period of thirty days of his appointment, or relinquishment of his office, as the case may be, disclose to the company the particulars specified in sub-section (1) of section 184 relating to his concern or interest in the other associations which are required to be included in the register under that sub-section or such other information relating to himself as may be prescribed.

1. The proviso ins. by Act 21 of 2015, s. 16 (w.e.f. 29-5-2015).

2. Subs. by Act 1 of 2018, s. 63, for “shall be voidable at the option of the Board” (w.e.f. 9-2-2018).

3. Subs. by Act 29 of 2020, s. 39, for certain words (w.e.f. 21-12-2020).

4. Subs. by s. 39, *ibid.*, for certain words (w.e.f. 21-12-2020).

(3) The register referred to in sub-section (1) shall be kept at the registered office of the company and it shall be open for inspection at such office during business hours and extracts may be taken therefrom, and copies thereof as may be required by any member of the company shall be furnished by the company to such extent, in such manner, and on payment of such fees as may be prescribed.

(4) The register to be kept under this section shall also be produced at the commencement of every annual general meeting of the company and shall remain open and accessible during the continuance of the meeting to any person having the right to attend the meeting.

(5) Nothing contained in sub-section (1) shall apply to any contract or arrangement—

(a) for the sale, purchase or supply of any goods, materials or services if the value of such goods and materials or the cost of such services does not exceed five lakh rupees in the aggregate in any year; or

(b) by a banking company for the collection of bills in the ordinary course of its business.

(6) Every director who fails to comply with the provisions of this section and the rules made thereunder shall be liable to a penalty of twenty-five thousand rupees.

190. Contract of employment with managing or whole-time director.—(1) Every company shall keep at its registered office,—

(a) where a contract of service with a managing or whole-time director is in writing, a copy of the contract; or

(b) where such a contract is not in writing, a written memorandum setting out its terms.

(2) The copies of the contract or the memorandum kept under sub-section (1) shall be open to inspection by any member of the company without payment of fee.

(3) If any default is made in complying with the provisions of sub-section (1) or sub-section (2), the company shall be liable to a penalty of twenty-five thousand rupees and every officer of the company who is in default shall be liable to a penalty of five thousand rupees for each default.

(4) The provisions of this section shall not apply to a private company.

191. Payment to director for loss of office, etc., in connection with transfer of undertaking, property or shares.—(1) No director of a company shall, in connection with—

(a) the transfer of the whole or any part of any undertaking or property of the company; or

(b) the transfer to any person of all or any of the shares in a company being a transfer resulting from—

(i) an offer made to the general body of shareholders;

(ii) an offer made by or on behalf of some other body corporate with a view to a company becoming a subsidiary company of such body corporate or a subsidiary company of its holding company;

(iii) an offer made by or on behalf of an individual with a view to his obtaining the right to exercise, or control the exercise of, not less than one-third of the total voting power at any general meeting of the company; or

(iv) any other offer which is conditional on acceptance to a given extent, receive any payment by way of compensation for loss of office or as consideration for retirement from office, or in connection with such loss or retirement from such company or from the transferee of such undertaking or property, or from the transferees of shares or from any other person, not being such company, unless particulars as may be prescribed with respect to the payment proposed to be made by such transferee or person, including the amount thereof, have been disclosed to the members of the company and the proposal has been approved by the company in general meeting.

(2) Nothing in sub-section (1) shall affect any payment made by a company to a managing director or whole-time director or manager of the company by way of compensation for loss of office or as

consideration for retirement from office or in connection with such loss or retirement subject to limits or priorities, as may be prescribed.

(3) If the payment under sub-section (1) or sub-section (2) is not approved for want of quorum either in a meeting or an adjourned meeting, the proposal shall not be deemed to have been approved.

(4) Where a director of a company receives payment of any amount in contravention of sub-section (1) or the proposed payment is made before it is approved in the meeting, the amount so received by the director shall be deemed to have been received by him in trust for the company.

¹[(5) If a director of the company makes any default in complying with the provisions of this section, such director shall be liable to a penalty of one lakh rupees.]

(6) Nothing in this section shall be taken to prejudice the operation of any law requiring disclosure to be made with respect to any payment received under this section or such other like payments made to a director.

192. Restriction on non-cash transactions involving directors.—(1) No company shall enter into an arrangement by which—

(a) a director of the company or its holding, subsidiary or associate company or a person connected with him acquires or is to acquire assets for consideration other than cash, from the company; or

(b) the company acquires or is to acquire assets for consideration other than cash, from such director or person so connected,

unless prior approval for such arrangement is accorded by a resolution of the company in general meeting and if the director or connected person is a director of its holding company, approval under this sub-section shall also be required to be obtained by passing a resolution in general meeting of the holding company.

(2) The notice for approval of the resolution by the company or holding company in general meeting under sub-section (1) shall include the particulars of the arrangement along with the value of the assets involved in such arrangement duly calculated by a registered valuer.

(3) Any arrangement entered into by a company or its holding company in contravention of the provisions of this section shall be voidable at the instance of the company unless—

(a) the restitution of any money or other consideration which is the subject matter of the arrangement is no longer possible and the company has been indemnified by any other person for any loss or damage caused to it; or

(b) any rights are acquired *bona fide* for value and without notice of the contravention of the provisions of this section by any other person.

193. Contract by One Person Company.—(1) Where One Person Company limited by shares or by guarantee enters into a contract with the sole member of the company who is also the director of the company, the company shall, unless the contract is in writing, ensure that the terms of the contract or offer are contained in a memorandum or are recorded in the minutes of the first meeting of the Board of Directors of the company held next after entering into contract:

Provided that nothing in this sub-section shall apply to contracts entered into by the company in the ordinary course of its business.

(2) The company shall inform the Registrar about every contract entered into by the company and recorded in the minutes of the meeting of its Board of Directors under sub-section (1) within a period of fifteen days of the date of approval by the Board of Directors.

194. [Prohibition on forward dealings in securities of company by director or key managerial personnel.] Omitted by the Companies (Amendment) Act, 2017 (1 of 2018), s. 64 (w.e.f. 9-2-2018).

195. [Prohibition on insider trading of securities.] Omitted by s. 65, *ibid.* (w.e.f. 9-2-2018).

1. Subs. by Act 22 of 2019, s. 28, for sub-section (5) (w.e.f. 2-11-2018).

CHAPTER XIII

APPOINTMENT AND REMUNERATION OF MANAGERIAL PERSONNEL

196. Appointment of managing director, whole-time director or manager.—(1) No company shall appoint or employ at the same time a managing director and a manager.

(2) No company shall appoint or re-appoint any person as its managing director, whole-time director or manager for a term exceeding five years at a time:

Provided that no re-appointment shall be made earlier than one year before the expiry of his term.

(3) No company shall appoint or continue the employment of any person as managing director, whole-time director or manager who—

(a) is below the age of twenty-one years or has attained the age of seventy years:

Provided that appointment of a person who has attained the age of seventy years may be made by passing a special resolution in which case the explanatory statement annexed to the notice for such motion shall indicate the justification for appointing such person;

¹[Provided further that where no such special resolution is passed but votes cast in favour of the motion exceed the votes, if any, cast against the motion and the Central Government is satisfied, on an application made by the Board, that such appointment is most beneficial to the company, the appointment of the person who has attained the age of seventy years may be made.]”;

(b) is an undischarged insolvent or has at any time been adjudged as an insolvent;

(c) has at any time suspended payment to his creditors or makes, or has at any time made, a composition with them; or

(d) has at any time been convicted by a court of an offence and sentenced for a period of more than six months.

(4) Subject to the provisions of section 197 and Schedule V, a managing director, whole-time director or manager shall be appointed and the terms and conditions of such appointment and remuneration payable be approved by the Board of Directors at a meeting which shall be subject to approval by a resolution at the next general meeting of the company and by the Central Government in case such appointment is at variance to the conditions ²[specified in Part I of that Schedule]:

Provided that a notice convening Board or general meeting for considering such appointment shall include the terms and conditions of such appointment, remuneration payable and such other matters including interest, of a director or directors in such appointments, if any:

Provided further that a return in the prescribed form shall be filed within sixty days of such appointment with the Registrar.

(5) Subject to the provisions of this Act, where an appointment of a managing director, whole-time director or manager is not approved by the company at a general meeting, any act done by him before such approval shall not be deemed to be invalid.

197. Overall maximum managerial remuneration and managerial remuneration in case of absence or inadequacy of profits.—(1) The total managerial remuneration payable by a public company, to its directors, including managing director and whole-time director, and its manager in respect of any financial year shall not exceed eleven per cent. of the net profits of that company for that financial year computed in the manner laid down in section 198 except that the remuneration of the directors shall not be deducted from the gross profits:

Provided that the company in general meeting may, ^{3***} authorise the payment of remuneration exceeding eleven per cent. of the net profits of the company, subject to the provisions of Schedule V:

Provided further that, except with the approval of the company in general meeting, ⁴[by a special resolution,]—

(i) the remuneration payable to any one managing director; or whole-time director or manager shall not exceed five per cent. of the net profits of the company and if there is more than one such director remuneration shall not exceed ten per cent. of the net profits to all such directors and manager taken together;

1. The proviso ins. by Act 1 of 2018, s. 66 (w.e.f. 12-9-2018).

2. Subs. by s. 66, *ibid.*, for “specified in that Schedule” (w.e.f. 12-9-2018).

3. The words “with the approval of the Central Government,” omitted by Act 1 of 2018, s. 67 (w.e.f. 12-9-2018).

4. Ins. by s. 67, *ibid.* (w.e.f. 12-9-2018).

(ii) the remuneration payable to directors who are neither managing directors nor whole-time directors shall not exceed,—

(A) one per cent. of the net profits of the company, if there is a managing or whole-time director or manager;

(B) three per cent. of the net profits in any other case.

¹[Provided also that, where the company has defaulted in payment of dues to any bank or public financial institution or non-convertible debenture holders or any other secured creditor, the prior approval of the bank or public financial institution concerned or the non-convertible debenture holders or other secured creditor, as the case may be, shall be obtained by the company before obtaining the approval in the general meeting.]

(2) The percentages aforesaid shall be exclusive of any fees payable to directors under sub-section (5).

(3) Notwithstanding anything contained in sub-sections (1) and (2), but subject to the provisions of Schedule V, if, in any financial year, a company has no profits or its profits are inadequate, the company shall not pay to its directors, including any managing or whole-time director or manager, ²[or any other non-executive director, including an independent director] by way of remuneration any sum exclusive of any fees payable to directors under sub-section (5) hereunder except in accordance with the provisions of Schedule V ^{3***}.

(4) The remuneration payable to the directors of a company, including any managing or whole-time director or manager, shall be determined, in accordance with and subject to the provisions of this section, either by the articles of the company, or by a resolution or, if the articles so require, by a special resolution, passed by the company in general meeting and the remuneration payable to a director determined aforesaid shall be inclusive of the remuneration payable to him for the services rendered by him in any other capacity:

Provided that any remuneration for services rendered by any such director in other capacity shall not be so included if—

(a) the services rendered are of a professional nature; and

(b) in the opinion of the Nomination and Remuneration Committee, if the company is covered under sub-section (1) of section 178, or the Board of Directors in other cases, the director possesses the requisite qualification for the practice of the profession.

(5) A director may receive remuneration by way of fee for attending meetings of the Board or Committee thereof or for any other purpose whatsoever as may be decided by the Board:

Provided that the amount of such fees shall not exceed the amount as may be prescribed:

Provided further that different fees for different classes of companies and fees in respect of independent director may be such as may be prescribed.

(6) A director or manager may be paid remuneration either by way of a monthly payment or at a specified percentage of the net profits of the company or partly by one way and partly by the other.

4*

*

*

*

*

*

(8) The net profits for the purposes of this section shall be computed in the manner referred to in section 198.

⁵[(9) If any director draws or receives, directly or indirectly, by way of remuneration any such sums in excess of the limit prescribed by this section or without approval required under this section, he shall refund such sums to the company, within two years or such lesser period as may be allowed by the company, and until such sum is refunded, hold it in trust for the company.]

1. The proviso ins. by Act 1 of 2018, s. 67 (w.e.f. 12-9-2018).

2. Ins. by Act 29 of 2020, s. 40 (w.e.f. 18-3-2021).

3. The words “and if it is not able to comply with such provisions, with the previous approval of the Central Government” omitted by s. 67, *ibid.* (w.e.f.12-9-2018).

4. Sub-section (7) omitted by Act 22 of 2019, s. 29 (w.e.f. 2-11-2018).

5. Subs. by Act 1 of 2018, s. 67 (w.e.f. 12-9-2018).

(10) The company shall not waive the recovery of any sum refundable to it under sub-section (9) unless¹[approved by the company by special resolution within two years from the date the sum becomes refundable].

²[Provided that where the company has defaulted in payment of dues to any bank or public financial institution or non-convertible debenture holders or any other secured creditor, the prior approval of the bank or public financial institution concerned or the non-convertible debenture holders or other secured creditor, as the case may be, shall be obtained by the company before obtaining approval of such waiver.]

(11) In cases where Schedule V is applicable on grounds of no profits or inadequate profits, any provision relating to the remuneration of any director which purports to increase or has the effect of increasing the amount thereof, whether the provision be contained in the company's memorandum or articles, or in an agreement entered into by it, or in any resolution passed by the company in general meeting or its Board, shall not have any effect unless such increase is in accordance with the conditions specified in that Schedule ^{3***}.

(12) Every listed company shall disclose in the Board's report, the ratio of the remuneration of each director to the median employee's remuneration and such other details as may be prescribed.

(13) Where any insurance is taken by a company on behalf of its managing director, whole-time director, manager, Chief Executive Officer, Chief Financial Officer or Company Secretary for indemnifying any of them against any liability in respect of any negligence, default, misfeasance, breach of duty or breach of trust for which they may be guilty in relation to the company, the premium paid on such insurance shall not be treated as part of the remuneration payable to any such personnel:

Provided that if such person is proved to be guilty, the premium paid on such insurance shall be treated as part of the remuneration.

(14) Subject to the provisions of this section, any director who is in receipt of any commission from the company and who is a managing or whole-time director of the company shall not be disqualified from receiving any remuneration or commission from any holding company or subsidiary company of such company subject to its disclosure by the company in the Board's report.

⁴[(15) If any person makes any default in complying with the provisions of this section, he shall be liable to a penalty of one lakh rupees and where any default has been made by a company, the company shall be liable to a penalty of five lakh rupees.]

⁵[(16) The auditor of the company shall, in his report under section 143, make a statement as to whether the remuneration paid by the company to its directors is in accordance with the provisions of this section, whether remuneration paid to any director is in excess of the limit laid down under this section and give such other details as may be prescribed.

(17) On and from the commencement of the Companies (Amendment) Act, 2017, any application made to the Central Government under the provisions of this section [as it stood before such commencement], which is pending with that Government shall abate, and the company shall, within one year of such commencement, obtain the approval in accordance with the provisions of this section, as so amended.]

198. Calculation of profits.—(1) In computing the net profits of a company in any financial year for the purpose of section 197,—

(a) credit shall be given for the sums specified in sub-section (2), and credit shall not be given for those specified in sub-section (3); and

(b) the sums specified in sub-section (4) shall be deducted, and those specified in sub-section (5) shall not be deducted.

1. Subs. by Act 1 of 2018, s. 67, for "permitted by the Central Government" (w.e.f. 12-9-2018).

2. The proviso ins. by s. 67, *ibid.*, (w.e.f. 12-9-2018).

3. The words "and if such conditions are not being complied, the approval of the Central Government had been obtained" by s. 67, *ibid.*, (w.e.f. 12-9-2018).

4. Subs. by Act 22 of 2019, s. 29, for sub-section (15) (w.e.f. 2-11-2018).

5. Ins. by Act 1 of 2018, s. 67 (w.e.f. 12-9-2018).

(2) In making the computation aforesaid, credit shall be given for the bounties and subsidies received from any Government, or any public authority constituted or authorised in this behalf, by any Government, unless and except in so far as the Central Government otherwise directs.

(3) In making the computation aforesaid, credit shall not be given for the following sums, namely:—

(a) profits, by way of premium on shares or debentures of the company, which are issued or sold by the company ¹[unless the company is an investment company as referred to in clause (a) of the Explanation to section 186];

(b) profits on sales by the company of forfeited shares;

(c) profits of a capital nature including profits from the sale of the undertaking or any of the undertakings of the company or of any part thereof;

(d) profits from the sale of any immovable property or fixed assets of a capital nature comprised in the undertaking or any of the undertakings of the company, unless the business of the company consists, whether wholly or partly, of buying and selling any such property or assets:

Provided that where the amount for which any fixed asset is sold exceeds the written-down value thereof, credit shall be given for so much of the excess as is not higher than the difference between the original cost of that fixed asset and its written-down value;

(e) any change in carrying amount of an asset or of a liability recognised inequity reserves including surplus in profit and loss account on measurement of the asset or the liability at fair value.

²[(f) any amount representing unrealised gains, notional gains or revaluation of assets.]

(4) In making the computation aforesaid, the following sums shall be deducted, namely:—

(a) all the usual working charges;

(b) directors' remuneration;

(c) bonus or commission paid or payable to any member of the company's staff, or to any engineer, technician or person employed or engaged by the company, whether on a whole-time or on a part-time basis;

(d) any tax notified by the Central Government as being in the nature of a tax on excess or abnormal profits;

(e) any tax on business profits imposed for special reasons or in special circumstances and notified by the Central Government in this behalf;

(f) interest on debentures issued by the company;

(g) interest on mortgages executed by the company and on loans and advances secured by a charge on its fixed or floating assets;

(h) interest on unsecured loans and advances;

(i) expenses on repairs, whether to immovable or to movable property, provided the repairs are not of a capital nature;

(j) outgoings inclusive of contributions made under section 181;

(k) depreciation to the extent specified in section 123;

(l) the excess of expenditure over income, which had arisen in computing the net profits in accordance with this section in any year ^{3***}, in so far as such excess has not been deducted in any subsequent year preceding the year in respect of which the net profits have to be ascertained;

(m) any compensation or damages to be paid in virtue of any legal liability including a liability arising from a breach of contract;

(n) any sum paid by way of insurance against the risk of meeting any liability such as is referred to in clause (m);

(o) debts considered bad and written off or adjusted during the year of account.

(5) In making the computation aforesaid, the following sums shall not be deducted, namely:—

(a) income-tax and super-tax payable by the company under the Income-tax Act, 1961 (43 of 1961), or any other tax on the income of the company not falling under clauses (d) and (e) of subsection (4);

1. Ins. by Act 1 of 2018, s. 68 (w.e.f. 12-9-2018).

2. Clause (f) ins. by s. 68, *ibid.* (w.e.f. 12-9-2018).

3. The words "which begins at or after the commencement of this Act" omitted by s. 68, *ibid.* (w.e.f. 12-9-2018).

(b) any compensation, damages or payments made voluntarily, that is to say, otherwise than in virtue of a liability such as is referred to in clause (m) of sub-section (4);

(c) loss of a capital nature including loss on sale of the undertaking or any of the undertakings of the company or of any part thereof not including any excess of the written-down value of any asset which is sold, discarded, demolished or destroyed over its sale proceeds or its scrap value;

(d) any change in carrying amount of an asset or of a liability recognised inequity reserves including surplus in profit and loss account on measurement of the asset or the liability at fair value.

199. Recovery of remuneration in certain cases.—Without prejudice to any liability incurred under the provisions of this Act or any other law for the time being in force, where a company is required to re-state its financial statements due to fraud or non-compliance with any requirement under this Act and the rules made thereunder, the company shall recover from any past or present managing director or whole-time director or manager or Chief Executive Officer (by whatever name called) who, during the period for which the financial statements are required to be re-stated, received the remuneration (including stock option) in excess of what would have been payable to him as per restatement of financial statements.

200. Central Government or company to fix limit with regard to remuneration.—Notwithstanding anything contained in this Chapter,^{1***} a company may, while according its approval under section 196, to any appointment or to any remuneration under section 197 in respect of cases where the company has inadequate or no profits, fix the remuneration within the limits specified in this Act, at such amount or percentage of profits of the company, as it may deem fit and while fixing the remuneration,^{1***} the company shall have regard to—

- (a) the financial position of the company;
- (b) the remuneration or commission drawn by the individual concerned in any other capacity;
- (c) the remuneration or commission drawn by him from any other company;
- (d) professional qualifications and experience of the individual concerned;
- (e) such other matters as may be prescribed.

201. Forms of, and procedure in relation to, certain applications.—(1) Every application made to the Central Government under²[section 196] shall be in such form as may be prescribed.

(2) (a) Before any application is made by a company to the Central Government under³[section 196], there shall be issued by or on behalf of the company a general notice to the members thereof, indicating the nature of the application proposed to be made.

(b) Such notice shall be published at least once in a newspaper in the principal language of the district in which the registered office of the company is situate and circulating in that district, and at least once in English in an English newspaper circulating in that district.

(c) The copies of the notices, together with a certificate by the company as to the due publication thereof, shall be attached to the application.

202. Compensation for loss of office of managing or whole-time director or manager.—(1) A company may make payment to a managing or whole-time director or manager, but not to any other director, by way of compensation for loss of office, or as consideration for retirement from office or in connection with such loss or retirement.

(2) No payment shall be made under sub-section (1) in the following cases, namely:—

(a) where the director resigns from his office as a result of the reconstruction of the company, or of its amalgamation with any other body corporate or bodies corporate, and is appointed as the managing or whole-time director, manager or other officer of the reconstructed company or of the body corporate resulting from the amalgamation;

(b) where the director resigns from his office otherwise than on the reconstruction of the company or its amalgamation as aforesaid;

(c) where the office of the director is vacated under sub-section (1) of section 167;

(d) where the company is being wound up, whether by an order of the Tribunal or voluntarily, provided the winding up was due to the negligence or default of the director;

1. The words “the Central Government or” omitted by Act 1 of 2018, s. 69 (w.e.f. 12-9-2018).

2. The words “this Chapter” omitted by s. 70, *ibid.* (w.e.f. 12-9-2018).

3. Subs. by s. 70, *ibid.* for “any of the sections aforesaid” (w.e.f. 12-9-2018).

(e) where the director has been guilty of fraud or breach of trust in relation to, or of gross negligence in or gross mismanagement of, the conduct of the affairs of the company or any subsidiary company or holding company thereof; and

(f) where the director has instigated, or has taken part directly or indirectly in bringing about, the termination of his office.

(3) Any payment made to a managing or whole-time director or manager in pursuance of sub-section (1) shall not exceed the remuneration which he would have earned if he had been in office for the remainder of his term or for three years, whichever is shorter, calculated on the basis of the average remuneration actually earned by him during a period of three years immediately preceding the date on which he ceased to hold office, or where he held the office for a lesser period than three years, during such period:

Provided that no such payment shall be made to the director in the event of the commencement of the winding up of the company, whether before or at any time within twelve months after, the date on which he ceased to hold office, if the assets of the company on the winding up, after deducting the expenses thereof, are not sufficient to repay to the shareholders the share capital, including the premiums, if any, contributed by them.

(4) Nothing in this section shall be deemed to prohibit the payment to a managing or whole-time director, or manager, of any remuneration for services rendered by him to the company in any other capacity.

203. Appointment of key managerial personnel.—(1) Every company belonging to such class or classes of companies as may be prescribed shall have the following whole-time key managerial personnel,—

(i) managing director, or Chief Executive Officer or manager and in their absence, a whole-time director;

(ii) company secretary; and

(iii) Chief Financial Officer:

Provided that an individual shall not be appointed or reappointed as the chairperson of the company, in pursuance of the articles of the company, as well as the managing director or Chief Executive Officer of the company at the same time after the date of commencement of this Act unless,—

(a) the articles of such a company provide otherwise; or

(b) the company does not carry multiple businesses:

Provided further that nothing contained in the first proviso shall apply to such class of companies engaged in multiple businesses and which has appointed one or more Chief Executive Officers for each such business as may be notified by the Central Government.

(2) Every whole-time key managerial personnel of a company shall be appointed by means of a resolution of the Board containing the terms and conditions of the appointment including the remuneration.

(3) A whole-time key managerial personnel shall not hold office in more than one company except in its subsidiary company at the same time:

Provided that nothing contained in this sub-section shall disentitle a key managerial personnel from being a director of any company with the permission of the Board:

Provided further that whole-time key managerial personnel holding office in more than one company at the same time on the date of commencement of this Act, shall, within a period of six months from such commencement, choose one company, in which he wishes to continue to hold the office of key managerial personnel:

Provided also that a company may appoint or employ a person as its managing director, if he is the managing director or manager of one, and of not more than one, other company and such appointment or employment is made or approved by a resolution passed at a meeting of the Board with the consent of all the directors present at the meeting and of which meeting, and of the resolution to be moved thereat, specific notice has been given to all the directors then in India.

(4) If the office of any whole-time key managerial personnel is vacated, the resulting vacancy shall be filled-up by the Board at a meeting of the Board within a period of six months from the date of such vacancy.

¹[(5) If any company makes any default in complying with the provisions of this section, such company shall be liable to a penalty of five lakh rupees and every director and key managerial personnel of the company who is in default shall be liable to a penalty of fifty thousand rupees and where the default is a continuing one, with a further penalty of one thousand rupees for each day after the first during which such default continues but not exceeding five lakh rupees.]

204. Secretarial audit for bigger companies.—(1) Every listed company and a company belonging to other class of companies as may be prescribed shall annex with its Board's report made in terms of sub-section (3) of section 134, a secretarial audit report, given by a company secretary in practice, in such form as may be prescribed.

(2) It shall be the duty of the company to give all assistance and facilities to the company secretary in practice, for auditing the secretarial and related records of the company.

(3) The Board of Directors, in their report made in terms of sub-section (3) of section 134, shall explain in full any qualification or observation or other remarks made by the company secretary in practice in his report under sub-section (1).

(4) If a company or any officer of the company or the company secretary in practice, contravenes the provisions of this section, the company, every officer of the company or the company secretary in practice, who is in default, shall be ²[liable to a penalty of two lakh rupees].

205. Functions of company secretary.—(1) The functions of the company secretary shall include,—

(a) to report to the Board about compliance with the provisions of this Act, the rules made thereunder and other laws applicable to the company;

(b) to ensure that the company complies with the applicable secretarial standards;

(c) to discharge such other duties as may be prescribed.

Explanation.—For the purpose of this section, the expression “secretarial standards” means secretarial standards issued by the Institute of Company Secretaries of India constituted under section 3 of the Company Secretaries Act, 1980 (56 of 1980) and approved by the Central Government.

(2) The provisions contained in section 204 and section 205 shall not affect the duties and functions of the Board of Directors, chairperson of the company, managing director or whole-time director under this Act, or any other law for the time being in force.

CHAPTER XIV

INSPECTION, INQUIRY AND INVESTIGATION

206. Power to call for information, inspect books and conduct inquiries.—(1) Where on a scrutiny of any document filed by a company or on any information received by him, the Registrar is of the opinion that any further information or explanation or any further documents relating to the company is necessary, he may by a written notice require the company—

(a) to furnish in writing such information or explanation; or

(b) to produce such documents,

within such reasonable time, as may be specified in the notice.

(2) On the receipt of a notice under sub-section (1), it shall be the duty of the company and of its officers concerned to furnish such information or explanation to the best of their knowledge and power and to produce the documents to the Registrar within the time specified or extended by the Registrar:

Provided that where such information or explanation relates to any past period, the officers who had been in the employment of the company for such period, if so called upon by the Registrar through a notice served on them in writing, shall also furnish such information or explanation to the best of their knowledge.

1. Subs. by Act 22 of 2019, s. 30, for sub-section (5) (w.e.f. 2-11-2018).

2. Subs. by Act 29 of 2020, s. 41, for certain words (w.e.f. 21-12-2020).

(3) If no information or explanation is furnished to the Registrar within the time specified under sub-section (1) or if the Registrar on an examination of the documents furnished is of the opinion that the information or explanation furnished is in adequate or if the Registrar is satisfied on a scrutiny of the documents furnished that an unsatisfactory state of affairs exists in the company and does not disclose a full and fair statement of the information required, he may, by another written notice, call on the company to produce for his inspection such further books of account, books, papers and explanations as he may require at such place and at such time as he may specify in the notice:

Provided that before any notice is served under this sub-section, the Registrar shall record his reasons in writing for issuing such notice.

(4) If the Registrar is satisfied on the basis of information available with or furnished to him or on a representation made to him by any person that the business of a company is being carried on for a fraudulent or unlawful purpose or not in compliance with the provisions of this Act or if the grievances of investors are not being addressed, the Registrar may, after informing the company of the allegations made against it by a written order, call on the company to furnish in writing any information or explanation on matters specified in the order within such time as he may specify therein and carry out such inquiry as he deems fit after providing the company a reasonable opportunity of being heard:

Provided that the Central Government may, if it is satisfied that the circumstances so warrant, direct the Registrar or an inspector appointed by it for the purpose to carry out the inquiry under this sub-section:

Provided further that where business of a company has been or is being carried on for a fraudulent or unlawful purpose, every officer of the company who is in default shall be punishable for fraud in the manner as provided in section 447.

(5) Without prejudice to the foregoing provisions of this section, the Central Government may, if it is satisfied that the circumstances so warrant, direct inspection of books and papers of a company by an inspector appointed by it for the purpose.

(6) The Central Government may, having regard to the circumstances by general or special order, authorise any statutory authority to carry out the inspection of books of account of a company or class of companies.

(7) If a company fails to furnish any information or explanation or produce any document required under this section, the company and every officer of the company, who is in default shall be punishable with a fine which may extend to one lakh rupees and in the case of a continuing failure, with an additional fine which may extend to five hundred rupees for everyday after the first during which the failure continues.

207. Conduct of inspection and inquiry.—(1) Where a Registrar or inspector calls for the books of account and other books and papers under section 206, it shall be the duty of every director, officer or other employee of the company to produce all such documents to the Registrar or inspector and furnish him with such statements, information or explanations in such form as the Registrar or inspector may require and shall render all assistance to the Registrar or inspector in connection with such inspection.

(2) The Registrar or inspector, making an inspection or inquiry under section 206 may, during the course of such inspection or inquiry, as the case may be,—

(a) make or cause to be made copies of books of account and other books and papers; or

(b) place or cause to be placed any marks of identification in such books in token of the inspection having been made.

(3) Notwithstanding anything contained in any other law for the time being in force or in any contract to the contrary, the Registrar or inspector making an inspection or inquiry shall have all the powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit in respect of the following matters, namely:—

(a) the discovery and production of books of account and other documents, at such place and time as may be specified by such Registrar or inspector making the inspection or inquiry;

(b) summoning and enforcing the attendance of persons and examining them on oath; and

(c) inspection of any books, registers and other documents of the company at any place.

(4) (i) If any director or officer of the company disobeys the direction issued by the Registrar or the inspector under this section, the director or the officer shall be punishable with imprisonment which may extend to one year and with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

(ii) If a director or an officer of the company has been convicted of an offence under this section, the director or the officer shall, on and from the date on which he is so convicted, be deemed to have vacated his office as such and on such vacation of office, shall be disqualified from holding an office in any company.

208. Report on inspection made.—The Registrar or inspector shall, after the inspection of the books of account or an inquiry under section 206 and other books and papers of the company under section 207, submit a report in writing to the Central Government along with such documents, if any, and such report may, if necessary, include a recommendation that further investigation into the affairs of the company is necessary giving his reasons in support.

209. Search and seizure.—(1) Where, upon information in his possession or otherwise, the Registrar or inspector has reasonable ground to believe that the books and papers of a company, or relating to the key managerial personnel or any director or auditor or company secretary in practice if the company has not appointed a company secretary, are likely to be destroyed, mutilated, altered, falsified or secreted, he may, after obtaining an order from the Special Court for the seizure of such books and papers,—

(a) enter, with such assistance as may be required, and search, the place or places where such books or papers are kept; and

(b) seize such books and papers as he considers necessary after allowing the company to take copies of, or extracts from, such books or papers at its cost.

(2) The Registrar or inspector shall return the books and papers seized under sub-section (1), as soon as may be, and in any case not later than one hundred and eightieth day after such seizure, to the company from whose custody or power such books or papers were seized:

Provided that the books and papers may be called for by the Registrar or inspector for a further period of one hundred and eighty days by an order in writing if they are needed again:

Provided further that the Registrar or inspector may, before returning such books and papers as aforesaid, take copies of, or extracts from them or place identification marks on them or any part thereof or deal with the same in such other manner as he considers necessary.

(3) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to searches or seizures shall apply, *mutatis mutandis*, to every search and seizure made under this section.

210. Investigation into affairs of company.—(1) Where the Central Government is of the opinion, that it is necessary to investigate into the affairs of a company,—

(a) on the receipt of a report of the Registrar or inspector under section 208;

(b) on intimation of a special resolution passed by a company that the affairs of the company ought to be investigated; or

(c) in public interest,

it may order an investigation into the affairs of the company.

(2) Where an order is passed by a court or the Tribunal in any proceedings before it that the affairs of a company ought to be investigated, the Central Government shall order an investigation into the affairs of that company.

(3) For the purposes of this section, the Central Government may appoint one or more persons as inspectors to investigate into the affairs of the company and to report thereon in such manner as the Central Government may direct.

211. Establishment of Serious Fraud Investigation Office.—(1) The Central Government shall, by notification, establish an office to be called the Serious Fraud Investigation Office to investigate frauds relating to a company:

Provided that until the Serious Fraud Investigation Office is established under sub-section (1), the Serious Fraud Investigation Office set-up by the Central Government in terms of the Government of India Resolution No. 45011/16/2003-Adm-I, dated the 2nd July, 2003 shall be deemed to be the Serious Fraud Investigation Office for the purpose of this section.

(2) The Serious Fraud Investigation Office shall be headed by a Director and consist of such number of experts from the following fields to be appointed by the Central Government from amongst persons of ability, integrity and experience in,—

- (i) banking;
- (ii) corporate affairs;
- (iii) taxation;
- (iv) forensic audit;
- (v) capital market;
- (vi) information technology;
- (vii) law; or
- (viii) such other fields as may be prescribed.

(3) The Central Government shall, by notification, appoint a Director in the Serious Fraud Investigation Office, who shall be an officer not below the rank of a Joint Secretary to the Government of India having knowledge and experience in dealing with matters relating to corporate affairs.

(4) The Central Government may appoint such experts and other officers and employees in the Serious Fraud Investigation Office as it considers necessary for the efficient discharge of its functions under this Act.

(5) The terms and conditions of service of Director, experts, and other officers and employees of the Serious Fraud Investigation Office shall be such as may be prescribed.

212. Investigation into affairs of Company by Serious Fraud Investigation Office.—(1) Without prejudice to the provisions of section 210, where the Central Government is of the opinion, that it is necessary to investigate into the affairs of a company by the Serious Fraud Investigation Office—

- (a) on receipt of a report of the Registrar or inspector under section 208;
- (b) on intimation of a special resolution passed by a company that its affairs are required to be investigated;
- (c) in the public interest; or
- (d) on request from any Department of the Central Government or a State Government,

the Central Government may, by order, assign the investigation into the affairs of the said company to the Serious Fraud Investigation Office and its Director, may designate such number of inspectors, as he may consider necessary for the purpose of such investigation.

(2) Where any case has been assigned by the Central Government to the Serious Fraud Investigation Office for investigation under this Act, no other investigating agency of Central Government or any State Government shall proceed with investigation in such case in respect of any offence under this Act and in case any such investigation has already been initiated, it shall not be proceeded further with and the concerned agency shall transfer the relevant documents and records in respect of such offences under this Act to Serious Fraud Investigation Office.

(3) Where the investigation into the affairs of a company has been assigned by the Central Government to Serious Fraud Investigation Office, it shall conduct the investigation in the manner and follow the

procedure provided in this Chapter; and submit its report to the Central Government within such period as may be specified in the order.

(4) The Director, Serious Fraud Investigation Office shall cause the affairs of the company to be investigated by an Investigating Officer who shall have the power of the inspector under section 217.

(5) The company and its officers and employees, who are or have been in employment of the company shall be responsible to provide all information, explanation, documents and assistance to the Investigating Officer as he may require for conduct of the investigation.

(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),¹ [offence covered under section 447] of this Act shall be cognizable and no person accused of any offence under those sections shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release; and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:

Provided that a person, who, is under the age of sixteen years or is a woman or is sick or infirm, may be released on bail, if the Special Court so directs:

Provided further that the Special Court shall not take cognizance of any offence referred to this sub-section except upon a complaint in writing made by—

(i) the Director, Serious Fraud Investigation Office; or

(ii) any officer of the Central Government authorised, by a general or special order in writing in this behalf by that Government.

(7) The limitation on granting of bail specified in sub-section (6) is in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.

(8) ²[If any officer not below the rank of Assistant Director] of Serious Fraud Investigation Office authorised in this behalf by the Central Government by general or special order, has on the basis of material in his possession reason to believe (the reason for such belief to be recorded in writing) that any person has been guilty of any offence punishable under sections referred to in sub-section (6), he may arrest such person and shall, as soon as may be, inform him of the grounds for such arrest.

(9) ³[The officer authorized under sub-section (8) shall, immediately after arrest of such person under such sub-section], forward a copy of the order, along with the material in his possession, referred to in that sub-section, to the Serious Fraud Investigation Office in a sealed envelope, in such manner as may be prescribed and the Serious Fraud Investigation Office shall keep such order and material for such period as may be prescribed.

(10) Every person arrested under sub-section (8) shall within twenty-four hours, be taken to a ⁴[Special Court or Judicial Magistrate] or a Metropolitan Magistrate, as the case may be, having jurisdiction:

Provided that the period of twenty-four hours shall exclude the time necessary for the journey from the place of arrest to the ⁵[Special Court or Magistrate's court].

(11) The Central Government if so directs, the Serious Fraud Investigation Office shall submit an interim report to the Central Government.

1. Subs. by Act 21 of 2015, s. 17, for certain words, brackets and figures (w.e.f. 29-5-2015).

2. Subs. by Act 22 of 2019, s. 31, for "If the Director, Additional Director or Assistant Director" (w.e.f. 15-8-2019).

3. Subs. s. 31, *ibid.*, for "The Director, Additional Director or Assistant Director of Serious Fraud Investigation Office shall, immediately after arrest of such person under sub-section (8)" (w.e.f. 15-8-2019).

4. Subs. by s. 31, *ibid.*, for "Judicial Magistrate" (w.e.f. 15-8-2019).

5. Subs. by s. 31, *ibid.*, for "Magistrate's Court" (w.e.f. 15-8-2019).

(12) On completion of the investigation, the Serious Fraud Investigation Office shall submit the investigation report to the Central Government.

(13) Notwithstanding anything contained in this Act or in any other law for the time being in force, a copy of the investigation report may be obtained by any person concerned by making an application in this regard to the court.

(14) On receipt of the investigation report, the Central Government may, after examination of the report (and after taking such legal advice, as it may think fit), direct the Serious Fraud Investigation Office to initiate prosecution against the company and its officers or employees, who are or have been in employment of the company or any other person directly or indirectly connected with the affairs of the company.

¹[(14A) Where the report under sub-section (11) or sub-section (12) states that fraud has taken place in a company and due to such fraud any director, key managerial personnel, other officer of the company or any other person or entity, has taken undue advantage or benefit, whether in the form of any asset, property or cash or in any other manner, the Central Government may file an application before the Tribunal for appropriate orders with regard to disgorgement of such asset, property or cash and also for holding such director, key managerial personnel, other officer or any other person liable personally without any limitation of liability.]

(15) Notwithstanding anything contained in this Act or in any other law for the time being in force, the investigation report filed with the Special Court for framing of charges shall be deemed to be a report filed by a police officer under section 173 of the Code of Criminal Procedure, 1973 (2 of 1974).

(16) Notwithstanding anything contained in this Act, any investigation or other action taken or initiated by Serious Fraud Investigation Office under the provisions of the Companies Act, 1956 (1 of 1956) shall continue to be proceeded with under that Act as if this Act had not been passed.

(17) (a) In case Serious Fraud Investigation Office has been investigating any offence under this Act, any other investigating agency, State Government, police authority, income-tax authorities having any information or documents in respect of such offence shall provide all such information or documents available with it to the Serious Fraud Investigation Office;

(b) The Serious Fraud Investigation Office shall share any information or documents available with it, with any investigating agency, State Government, police authority or income-tax authorities, which may be relevant or useful for such investigating agency, State Government, police authority or income-tax authorities in respect of any offence or matter being investigated or examined by it under any other law.

213. Investigation into company's affairs in other cases.—The Tribunal may,—

(a) on an application made by—

(i) not less than one hundred members or members holding not less than one-tenth of the total voting power, in the case of a company having a share capital; or

(ii) not less than one-fifth of the persons on the company's register of members, in the case of a company having no share capital,

and supported by such evidence as may be necessary for the purpose of showing that the applicants have good reasons for seeking an order for conducting an investigation into the affairs of the company; or

(b) on an application made to it by any other person or otherwise, if it is satisfied that there are circumstances suggesting that—

(i) the business of the company is being conducted with intent to defraud its creditors, members or any other person or otherwise for a fraudulent or unlawful purpose, or in a manner oppressive to any of its members or that the company was formed for any fraudulent or unlawful purpose;

(ii) persons concerned in the formation of the company or the management of its affairs have in connection therewith been guilty of fraud, misfeasance or other misconduct towards the company or towards any of its members; or

1. Ins. by Act 22 of 2019, s. 31 (w.e.f. 15-8-2019).

(iii) the members of the company have not been given all the information with respect to its affairs which they might reasonably expect, including information relating to the calculation of the commission payable to a managing or other director, or the manager, of the company,

order, after giving a reasonable opportunity of being heard to the parties concerned, that the affairs of the company ought to be investigated by an inspector or inspectors appointed by the Central Government and where such an order is passed, the Central Government shall appoint one or more competent persons as inspectors to investigate into the affairs of the company in respect of such matters and to report thereupon to it in such manner as the Central Government may direct:

Provided that if after investigation it is proved that—

(i) the business of the company is being conducted with intent to defraud its creditors, members or any other persons or otherwise for a fraudulent or unlawful purpose, or that the company was formed for any fraudulent or unlawful purpose; or

(ii) any person concerned in the formation of the company or the management of its affairs have in connection therewith been guilty of fraud,

then, every officer of the company who is in default and the person or persons concerned in the formation of the company or the management of its affairs shall be punishable for fraud in the manner as provided in section 447.

214. Security for payment of costs and expenses of investigation.—Where an investigation is ordered by the Central Government in pursuance of clause (b) of sub-section (1) of section 210, or in pursuance of an order made by the Tribunal under section 213, the Central Government may before appointing an inspector under sub-section (3) of section 210 or clause (b) of section 213, require the applicant to give such security not exceeding twenty-five thousand rupees as may be prescribed, as it may think fit, for payment of the costs and expenses of the investigation and such security shall be refunded to the applicant if the investigation results in prosecution.

215. Firm, body corporate or association not to be appointed as inspector.—No firm, body corporate or other association shall be appointed as an inspector.

216. Investigation of ownership of company.—(1) Where it appears to the Central Government that there is a reason so to do, it may appoint one or more inspectors to investigate and report on matters relating to the company, and its membership for the purpose of determining the true persons—

(a) who are or have been financially interested in the success or failure, whether real or apparent, of the company; or

(b) who are or have been able to control or to materially influence the policy of the ¹[company; or].

²[(c) who have or had beneficial interest in shares of a company or who are or have been beneficial owners or significant beneficial owner of a company].

(2) Without prejudice to its powers under sub-section (1), the Central Government shall appoint one or more inspectors under that sub-section, if the Tribunal, in the course of any proceeding before it, directs by an order that the affairs of the company ought to be investigated as regards the membership of the company and other matters relating to the company, for the purposes specified in sub-section (1).

(3) While appointing an inspector under sub-section (1), the Central Government may define the scope of the investigation, whether as respects the matters or the period to which it is to extend or otherwise, and in particular, may limit the investigation to matters connected with particular shares or debentures.

(4) Subject to the terms of appointment of an inspector, his powers shall extend to the investigation of any circumstances suggesting the existence of any arrangement or understanding which, though not legally binding, is or was observed or is likely to be observed in practice and which is relevant for the purposes of his investigation.

1. Subs. by Act 1 of 2018, s. 71, for “company” (w.e.f. 13-6-2018).

2. Ins. by s. 71, *ibid.* (w.e.f. 13-6-2018).

217. Procedure, powers, etc., of inspectors.—(1) It shall be the duty of all officers and other employees and agents including the former officers, employees and agents of a company which is under investigation in accordance with the provisions contained in this Chapter, and where the affairs of any other body corporate or a person are investigated under section 219, of all officers and other employees and agents including former officers, employees and agents of such body corporate or a person—

(a) to preserve and to produce to an inspector or any person authorised by him in this behalf all books and papers of, or relating to, the company or, as the case may be, relating to the other body corporate or the person, which are in their custody or power; and

(b) otherwise to give to the inspector all assistance in connection with the investigation which they are reasonably able to give.

(2) The inspector may require any body corporate, other than a body corporate referred to in sub-section (1), to furnish such information to, or produce such books and papers before him or any person authorised by him in this behalf as he may consider necessary, if the furnishing of such information or the production of such books and papers is relevant or necessary for the purposes of his investigation.

(3) The inspector shall not keep in his custody any books and papers produced under sub-section (1) or sub-section (2) for more than one hundred and eighty days and return the same to the company, body corporate, firm or individual by whom or on whose behalf the books and papers were produced:

Provided that the books and papers may be called for by the inspector if they are needed again for a further period of one hundred and eighty days by an order in writing.

(4) An inspector may examine on oath—

(a) any of the persons referred to in sub-section (1); and

(b) with the prior approval of the Central Government, any other person,

in relation to the affairs of the company, or other body corporate or person, as the case may be, and for that purpose may require any of those persons to appear before him personally:

Provided that in case of an investigation under section 212, the prior approval of Director, Serious Fraud Investigation Office shall be sufficient under clause (b).

(5) Notwithstanding anything contained in any other law for the time being in force or in any contract to the contrary, the inspector, being an officer of the Central Government, making an investigation under this Chapter shall have all the powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit in respect of the following matters, namely:—

(a) the discovery and production of books of account and other documents, at such place and time as may be specified by such person;

(b) summoning and enforcing the attendance of persons and examining them on oath; and

(c) inspection of any books, registers and other documents of the company at any place.

(6) (i) If any director or officer of the company disobeys the direction issued by the Registrar or the inspector under this section, the director or the officer shall be punishable with imprisonment which may extend to one year and with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

(ii) If a director or an officer of the company has been convicted of an offence under this section, the director or the officer shall, on and from the date on which he is so convicted, be deemed to have vacated his office as such and on such vacation of office, shall be disqualified from holding an office in any company.

(7) The notes of any examination under sub-section (4) shall be taken down in writing and shall be read over to, or by, and signed by, the person examined, and may thereafter be used in evidence against him.

(8) If any person fails without reasonable cause or refuses—

(a) to produce to an inspector or any person authorised by him in this behalf any book or paper which is his duty under sub-section (1) or sub-section (2) to produce;

(b) to furnish any information which is his duty under sub-section (2) to furnish;

(c) to appear before the inspector personally when required to do so under sub-section (4) or to answer any question which is put to him by the inspector in pursuance of that sub-section; or

(d) to sign the notes of any examination referred to in sub-section (7),

he shall be punishable with imprisonment for a term which may extend to six months and with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees, and also with a further fine which may extend to two thousand rupees for every day after the first during which the failure or refusal continues.

(9) The officers of the Central Government, State Government, police or statutory authority shall provide assistance to the inspector for the purpose of inspection, inquiry or investigation, which the inspector may, with the prior approval of the Central Government, require.

(10) The Central Government may enter into an agreement with the Government of a foreign State for reciprocal arrangements to assist in any inspection, inquiry or investigation under this Act or under the corresponding law in force in that State and may, by notification, render the application of this Chapter in relation to a foreign State with which reciprocal arrangements have been made subject to such modifications, exceptions, conditions and qualifications as may be deemed expedient for implementing the agreement with that State.

(11) Notwithstanding anything contained in this Act or in the Code of Criminal Procedure, 1973(2 of 1974) if, in the course of an investigation into the affairs of the company, an application is made to the competent court in India by the inspector stating that evidence is, or may be, available in a country or place outside India, such court may issue a letter of request to a court or an authority in such country or place, competent to deal with such request, to examine orally, or otherwise, any person, supposed to be acquainted with the facts and circumstances of the case, to record his statement made in the course of such examination and also to require such person or any other person to produce any document or thing, which may be in his possession pertaining to the case, and to forward all the evidence so taken or collected or the authenticated copies thereof or the things so collected to the court in India which had issued such letter of request:

Provided that the letter of request shall be transmitted in such manner as the Central Government may specify in this behalf:

Provided further that every statement recorded or document or thing received under this sub-section shall be deemed to be the evidence collected during the course of investigation.

(12) Upon receipt of a letter of request from a court or an authority in a country or place outside India, competent to issue such letter in that country or place for the examination of any person or production of any document or thing in relation to affairs of a company under investigation in that country or place, the Central Government may, if it thinks fit, forward such letter of request to the court concerned, which shall thereupon summon the person before it and record his statement or cause any document or thing to be produced, or send the letter to any inspector for investigation, who shall thereupon investigate into the affairs of company in the same manner as the affairs of a company are investigated under this Act and the inspector shall submit the report to such court within thirty days or such extended time as the court may allow for further action:

Provided that the evidence taken or collected under this sub-section or authenticated copies thereof or the things so collected shall be forwarded by the court, to the Central Government for transmission, in such manner as the Central Government may deem fit, to the court or the authority in country or place outside India which had issued the letter of request.

218. Protection of employees during investigation.—(1) Notwithstanding anything contained in any other law for the time being in force, if—

(a) during the course of any investigation of the affairs and other matters of or relating to a company, other body corporate or person under section 210, section 212, section 213 or section 219 or

of the membership and other matters of or relating to a company, or the ownership of shares in or debentures of a company or body corporate, or the affairs and other matters of or relating to a company, other body corporate or person, under section 216; or

(b) during the pendency of any proceeding against any person concerned in the conduct and management of the affairs of a company under Chapter XVI,

such company, other body corporate or person proposes—

- (i) to discharge or suspend any employee; or
- (ii) to punish him, whether by dismissal, removal, reduction in rank or otherwise; or
- (iii) to change the terms of employment to his disadvantage,

the company, other body corporate or person, as the case may be, shall obtain approval of the Tribunal of the action proposed against the employee and if the Tribunal has any objection to the action proposed, it shall send by post notice thereof in writing to the company, other body corporate or person concerned.

(2) If the company, other body corporate or person concerned does not receive within thirty days of making of application under sub-section (1), the approval of the Tribunal, then and only then, the company, other body corporate or person concerned may proceed to take against the employee, the action proposed.

(3) If the company, other body corporate or person concerned is dissatisfied with the objection raised by the Tribunal, it may, within a period of thirty days of the receipt of the notice of the objection, prefer an appeal to the Appellate Tribunal in such manner and on payment of such fees as may be prescribed.

(4) The decision of the Appellate Tribunal on such appeal shall be final and binding on the Tribunal and on the company, other body corporate or person concerned.

(5) For the removal of doubts, it is hereby declared that the provisions of this section shall have effect without prejudice to the provisions of any other law for the time being in force.

219. Power of inspector to conduct investigation into affairs of related companies, etc.—If an inspector appointed under section 210 or section 212 or section 213 to investigate into the affairs of a company considers it necessary for the purposes of the investigation, to investigate also the affairs of—

(a) any other body corporate which is, or has at any relevant time been the company's subsidiary company or holding company, or a subsidiary company of its holding company;

(b) any other body corporate which is, or has at any relevant time been managed by any person as managing director or as manager, who is, or was, at the relevant time, the managing director or the manager of the company;

(c) any other body corporate whose Board of Directors comprises nominees of the company or is accustomed to act in accordance with the directions or instructions of the company or any of its directors; or

(d) any person who is or has at any relevant time been the company's managing director or manager or employee,

he shall, subject to the prior approval of the Central Government, investigate into and report on the affairs of the other body corporate or of the managing director or manager, in so far as he considers that the results of his investigation are relevant to the investigation of the affairs of the company for which he is appointed.

220. Seizure of documents by inspector.—(1) Where in the course of an investigation under this Chapter, the inspector has reasonable grounds to believe that the books and papers of, or relating to, any company or other body corporate or managing director or manager of such company are likely to be destroyed, mutilated, altered, falsified or secreted, the inspector may—

(a) enter, with such assistance as may be required, the place or places where such books and papers are kept in such manner as may be required; and

(b) seize books and papers as he considers necessary after allowing the company to take copies of, or extracts from, such books and papers at its cost for the purposes of his investigation.

(2) The inspector shall keep in his custody the books and papers seized under this section for such a period not later than the conclusion of the investigation as he considers necessary and thereafter shall return the same to the company or the other body corporate, or, as the case may be, to the managing director or the manager or any other person from whose custody or power they were seized:

Provided that the inspector may, before returning such books and papers as aforesaid, take copies of, or extracts from them or place identification marks on them or any part thereof or deal with the same in such manner as he considers necessary.

(3) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to searches or seizures shall apply *mutatis mutandis* to every search or seizure made under this section.

221. Freezing of assets of company on inquiry and investigation.—(1) Where it appears to the Tribunal, on a reference made to it by the Central Government or in connection with any inquiry or investigation into the affairs of a company under this Chapter or on any complaint made by such number of members as specified under sub-section (1) of section 244 or a creditor having one lakh amount outstanding against the company or any other person having a reasonable ground to believe that the removal, transfer or disposal of funds, assets, properties of the company is likely to take place in a manner that is prejudicial to the interests of the company or its shareholders or creditors or in public interest, it may by order direct that such transfer, removal or disposal shall not take place during such period not exceeding three years as may be specified in the order or may take place subject to such conditions and restrictions as the Tribunal may deem fit.

(2) In case of any removal, transfer or disposal of funds, assets, or properties of the company in contravention of the order of the Tribunal under sub-section (1), the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both.

222. Imposition of restrictions upon securities.—(1) Where it appears to the Tribunal, in connection with any investigation under section 216 or on a complaint made by any person in this behalf, that there is good reason to find out the relevant facts about any securities issued or to be issued by a company and the Tribunal is of the opinion that such facts cannot be found out unless certain restrictions, as it may deem fit, are imposed, the Tribunal may, by order, direct that the securities shall be subject to such restrictions as it may deem fit for such period not exceeding three years as may be specified in the order.

(2) Where securities in any company are issued or transferred or acted upon in contravention of an order of the Tribunal under sub-section (1), the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees, or with both.

223. Inspector's report.—(1) An inspector appointed under this Chapter may, and if so directed by the Central Government shall, submit interim reports to that Government, and on the conclusion of the investigation, shall submit a final report to the Central Government.

(2) Every report made under sub-section (1) shall be in writing or printed as the Central Government may direct.

(3) A copy of the report made under sub-section (1) may be obtained ¹[by members, creditors or any other person whose interest is likely to be affected] by making an application in this regard to the Central Government.

(4) The report of any inspector appointed under this Chapter shall be authenticated either—

(a) ²[by the seal, if any] of the company whose affairs have been investigated; or

1. Ins. by Act 1 of 2018, s. 72 (w.e.f. 9-2-2018).

2. Subs. by Act 21 of 2015, s. 18, for "by the seal" (w.e.f. 29-5-2015).

(b) by a certificate of a public officer having the custody of the report, as provided under section 76 of the Indian Evidence Act, 1872 (1 of 1872),

and such report shall be admissible in any legal proceeding as evidence in relation to any matter contained in the report.

(5) Nothing in this section shall apply to the report referred to in section 212.

224. Actions to be taken in pursuance of inspector's report.—(1) If, from an inspector's report, made under section 223, it appears to the Central Government that any person has, in relation to the company or in relation to any other body corporate or other person whose affairs have been investigated under this Chapter been guilty of any offence for which he is criminally liable, the Central Government may prosecute such person for the offence and it shall be the duty of all officers and other employees of the company or body corporate to give the Central Government the necessary assistance in connection with the prosecution.

(2) If any company or other body corporate is liable to be wound up under this Act ¹[or under the Insolvency and Bankruptcy Code, 2016 (31 of 2016)] and it appears to the Central Government from any such report made under section 223 that it is expedient so to do by reason of any such circumstances as are referred to in section 213, the Central Government may, unless the company or body corporate is already being wound up by the Tribunal, cause to be presented to the Tribunal by any person authorised by the Central Government in this behalf—

(a) a petition for the winding up of the company or body corporate on the ground that it is just and equitable that it should be wound up;

(b) an application under section 241; or

(c) both.

(3) If from any such report as aforesaid, it appears to the Central Government that proceedings ought, in the public interest, to be brought by the company or any body corporate whose affairs have been investigated under this Chapter—

(a) for the recovery of damages in respect of any fraud, misfeasance or other misconduct in connection with the promotion or formation, or the management of the affairs, of such company or body corporate; or

(b) for the recovery of any property of such company or body corporate which has been misapplied or wrongfully retained,

the Central Government may itself bring proceedings for winding up in the name of such company or body corporate.

(4) The Central Government, shall be indemnified by such company or body corporate against any costs or expenses incurred by it in, or in connection with, any proceedings brought by virtue of sub-section (3).

(5) Where the report made by an inspector states that fraud has taken place in a company and due to such fraud any director, key managerial personnel, other officer of the company or any other person or entity, has taken undue advantage or benefit, whether in the form of any asset, property or cash or in any other manner, the Central Government may file an application before the Tribunal for appropriate orders with regard to disgorgement of such asset, property, or cash, as the case may be, and also for holding such director, key managerial personnel, officer or other person liable personally without any limitation of liability.

225. Expenses of investigation.—(1) The expenses of, and incidental to, an investigation by an inspector appointed by the Central Government under this Chapter other than expenses of inspection under section 214 shall be defrayed in the first instance by the Central Government, but shall be reimbursed by the following persons to the extent mentioned below, namely:—

(a) any person who is convicted on a prosecution instituted, or who is ordered to pay damages or restore any property in proceedings brought, under section 224, to the extent that he may in the same

1. Ins. by Act 31 of 2016, s. 255 and the Eleventh Schedule (w.e.f. 15-11-2016).

proceedings be ordered to pay the said expenses as may be specified by the court convicting such person, or ordering him to pay such damages or restore such property, as the case may be;

(b) any company or body corporate in whose name proceedings are brought as aforesaid, to the extent of the amount or value of any sums or property recovered by it as a result of such proceedings;

(c) unless, as a result of the investigation, a prosecution is instituted under section 224,—

(i) any company, body corporate, managing director or manager dealt with by the report of the inspector; and

(ii) the applicants for the investigation, where the inspector was appointed under section 213, to such extent as the Central Government may direct.

(2) Any amount for which a company or body corporate is liable under clause (b) of sub-section (1) shall be a first charge on the sums or property mentioned in that clause.

226. Voluntary winding up of company, etc., not to stop investigation proceedings.—An investigation under this Chapter may be initiated notwithstanding, and no such investigation shall be stopped or suspended by reason only of, the fact that—

(a) an application has been made under section 241;

(b) the company has passed a special resolution for voluntary winding up; or

(c) any other proceeding for the winding up of the company is pending before the Tribunal:

Provided that where a winding up order is passed by the Tribunal in a proceeding referred to in clause (c), the inspector shall inform the Tribunal about the pendency of the investigation proceedings before him and the Tribunal shall pass such order as it may deem fit:

Provided further that nothing in the winding up order shall absolve any director or other employee of the company from participating in the proceedings before the inspector or any liability as a result of the finding by the inspector.

227. Legal advisors and bankers not to disclose certain information.—Nothing in this Chapter shall require the disclosure to the Tribunal or to the Central Government or to the Registrar or to an inspector appointed by the Central Government—

(a) by a legal adviser, of any privileged communication made to him in that capacity, except as respects the name and address of his client; or

(b) by the bankers of any company, body corporate, or other person, of any information as to the affairs of any of their customers, other than such company, body corporate, or person.

228. Investigation, etc., of foreign companies.—The provisions of this Chapter shall apply *mutatis mutandis* to inspection, inquiry or investigation in relation to foreign companies.

229. Penalty for furnishing false statement, mutilation, destruction of documents.—Where a person who is required to provide an explanation or make a statement during the course of inspection, inquiry or investigation, or an officer or other employee of a company or other body corporate which is also under investigation,—

(a) destroys, mutilates or falsifies, or conceals or tampers or unauthorised removes, or is a party to the destruction, mutilation or falsification or concealment or tampering or unauthorised removal of, documents relating to the property, assets or affairs of the company or the body corporate;

(b) makes, or is a party to the making of, a false entry in any document concerning the company or body corporate; or

(c) provides an explanation which is false or which he knows to be false,

he shall be punishable for fraud in the manner as provided in section 447.

CHAPTER XV

COMPROMISES, ARRANGEMENTS AND AMALGAMATIONS

230. Power to compromise or make arrangements with creditors and members.—(1) Where a compromise or arrangement is proposed—

- (a) between a company and its creditors or any class of them; or
- (b) between a company and its members or any class of them,

the Tribunal may, on the application of the company or of any creditor or member of the company, or in the case of a company which is being wound up, of the liquidator,¹[appointed under this Act or under the Insolvency and Bankruptcy Code, 2016 (31 of 2016), as the case may be,] order a meeting of the creditors or class of creditors, or of the members or class of members, as the case may be, to be called, held and conducted in such manner as the Tribunal directs.

Explanation.—For the purposes of this sub-section, arrangement includes a reorganisation of the company's share capital by the consolidation of shares of different classes or by the division of shares into shares of different classes, or by both of those methods.

(2) The company or any other person, by whom an application is made under sub-section (1), shall disclose to the Tribunal by affidavit—

- (a) all material facts relating to the company, such as the latest financial position of the company, the latest auditor's report on the accounts of the company and the pendency of any investigation or proceedings against the company;
- (b) reduction of share capital of the company, if any, included in the compromise or arrangement;
- (c) any scheme of corporate debt restructuring consented to by not less than seventy-five per cent. of the secured creditors in value, including—
 - (i) a creditor's responsibility statement in the prescribed form;
 - (ii) safeguards for the protection of other secured and unsecured creditors;
 - (iii) report by the auditor that the fund requirements of the company after the corporate debt restructuring as approved shall conform to the liquidity test based upon the estimates provided to them by the Board;
 - (iv) where the company proposes to adopt the corporate debt restructuring guidelines specified by the Reserve Bank of India, a statement to that effect; and
 - (v) a valuation report in respect of the shares and the property and all assets, tangible and intangible, movable and immovable, of the company by a registered valuer.

(3) Where a meeting is proposed to be called in pursuance of an order of the Tribunal under sub-section (1), a notice of such meeting shall be sent to all the creditors or class of creditors and to all the members or class of members and the debenture-holders of the company, individually at the address registered with the company which shall be accompanied by a statement disclosing the details of the compromise or arrangement, a copy of the valuation report, if any, and explaining their effect on creditors, key managerial personnel, promoters and non-promoter members, and the debenture-holders and the effect of the compromise or arrangement on any material interests of the directors of the company or the debenture trustees, and such other matters as may be prescribed:

Provided that such notice and other documents shall also be placed on the website of the company, if any, and in case of a listed company, these documents shall be sent to the Securities and Exchange Board and stock exchange where the securities of the companies are listed, for placing on their website and shall also be published in newspapers in such manner as may be prescribed:

Provided further that where the notice for the meeting is also issued by way of an advertisement, it shall indicate the time within which copies of the compromise or arrangement shall be made available to the concerned persons free of charge from the registered office of the company.

(4) A notice under sub-section (3) shall provide that the persons to whom the notice is sent may vote in the meeting either themselves or through proxies or by postal ballot to the adoption of the compromise or arrangement within one month from the date of receipt of such notice:

1. Ins. by Act 31 of 2016, s. 255 and the Eleventh Schedule (w.e.f. 15-11-2016).

Provided that any objection to the compromise or arrangement shall be made only by persons holding not less than ten per cent. of the shareholding or having outstanding debt amounting to not less than five per cent. of the total outstanding debt as per the latest audited financial statement.

(5) A notice under sub-section (3) along with all the documents in such form as may be prescribed shall also be sent to the Central Government, the income-tax authorities, the Reserve Bank of India, the Securities and Exchange Board, the Registrar, the respective stock exchanges, the Official Liquidator, the Competition Commission of India established under sub-section (1) of section 7 of the Competition Act, 2002 (12 of 2003), if necessary, and such other sectoral regulators or authorities which are likely to be affected by the compromise or arrangement and shall require that representations, if any, to be made by them shall be made within a period of thirty days from the date of receipt of such notice, failing which, it shall be presumed that they have no representations to make on the proposals.

(6) Where, at a meeting held in pursuance of sub-section (1), majority of persons representing three-fourths in value of the creditors, or class of creditors or members or class of members, as the case may be, voting in person or by proxy or by postal ballot, agree to any compromise or arrangement and if such compromise or arrangement is sanctioned by the Tribunal by an order, the same shall be binding on the company, all the creditors, or class of creditors or members or class of members, as the case may be, or, in case of a company being wound up, on the liquidator ¹[appointed under this act or under the Insolvency and Bankruptcy Code, 2016 (31 of 2016), as the case may be,] and the contributories of the company.

(7) An order made by the Tribunal under sub-section (6) shall provide for all or any of the following matters, namely:—

(a) where the compromise or arrangement provides for conversion of preference shares into equity shares, such preference shareholders shall be given an option to either obtain arrears of dividend in cash or accept equity shares equal to the value of the dividend payable;

(b) the protection of any class of creditors;

(c) if the compromise or arrangement results in the variation of the shareholders' rights, it shall be given effect to under the provisions of section 48;

(d) if the compromise or arrangement is agreed to by the creditors under sub-section (6), any proceedings pending before the Board for Industrial and Financial Reconstruction established under section 4 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) shall abate;

(e) such other matters including exit offer to dissenting shareholders, if any, as are in the opinion of the Tribunal necessary to effectively implement the terms of the compromise or arrangement:

Provided that no compromise or arrangement shall be sanctioned by the Tribunal unless a certificate by the company's auditor has been filed with the Tribunal to the effect that the accounting treatment, if any, proposed in the scheme of compromise or arrangement is in conformity with the accounting standards prescribed under section 133.

(8) The order of the Tribunal shall be filed with the Registrar by the company within a period of thirty days of the receipt of the order.

(9) The Tribunal may dispense with calling of a meeting of creditor or class of creditors where such creditors or class of creditors, having at least ninety per cent. value, agree and confirm, by way of affidavit, to the scheme of compromise or arrangement.

(10) No compromise or arrangement in respect of any buy-back of securities under this section shall be sanctioned by the Tribunal unless such buy-back is in accordance with the provisions of section 68.

(11) Any compromise or arrangement may include takeover offer made in such manner as may be prescribed:

Provided that in case of listed companies, takeover offer shall be as per the regulations framed by the Securities and Exchange Board.

(12) An aggrieved party may make an application to the Tribunal in the event of any grievances with respect to the takeover offer of companies other than listed companies in such manner as may be prescribed and the Tribunal may, on application, pass such order as it may deem fit.

1. Ins. by Act 31 of 2016, s. 255 and The Eleventh Schedule (w.e.f. 15-11-2016).

Explanation.—For the removal of doubts, it is hereby declared that the provisions of section 66 shall not apply to the reduction of share capital effected in pursuance of the order of the Tribunal under this section.

231. Power of Tribunal to enforce compromise or arrangement.—(1) Where the Tribunal makes an order under section 230 sanctioning a compromise or an arrangement in respect of a company, it—

(a) shall have power to supervise the implementation of the compromise or arrangement; and

(b) may, at the time of making such order or at any time thereafter, give such directions in regard to any matter or make such modifications in the compromise or arrangement as it may consider necessary for the proper implementation of the compromise or arrangement.

(2) If the Tribunal is satisfied that the compromise or arrangement sanctioned under section 230 cannot be implemented satisfactorily with or without modifications, and the company is unable to pay its debts as per the scheme, it may make an order for winding up the company and such an order shall be deemed to be an order made under section 273.

(3) The provisions of this section shall, so far as may be, also apply to a company in respect of which an order has been made before the commencement of this Act sanctioning a compromise or an arrangement.

232. Merger and amalgamation of companies.—(1) Where an application is made to the Tribunal under section 230 for the sanctioning of a compromise or an arrangement proposed between a company and any such persons as are mentioned in that section, and it is shown to the Tribunal—

(a) that the compromise or arrangement has been proposed for the purposes of, or in connection with, a scheme for the reconstruction of the company or companies involving merger or the amalgamation of any two or more companies; and

(b) that under the scheme, the whole or any part of the undertaking, property or liabilities of any company (hereinafter referred to as the transferor company) is required to be transferred to another company (hereinafter referred to as the transferee company), or is proposed to be divided among and transferred to two or more companies,

the Tribunal may on such application, order a meeting of the creditors or class of creditors or the members or class of members, as the case may be, to be called, held and conducted in such manner as the Tribunal may direct and the provisions of sub-sections (3) to (6) of section 230 shall apply *mutatis mutandis*.

(2) Where an order has been made by the Tribunal under sub-section (1), merging companies or the companies in respect of which a division is proposed, shall also be required to circulate the following for the meeting so ordered by the Tribunal, namely:—

(a) the draft of the proposed terms of the scheme drawn up and adopted by the directors of the merging company;

(b) confirmation that a copy of the draft scheme has been filed with the Registrar;

(c) a report adopted by the directors of the merging companies explaining effect of compromise on each class of shareholders, key managerial personnel, promoters and non-promoter shareholders laying out in particular the share exchange ratio, specifying any special valuation difficulties;

(d) the report of the expert with regard to valuation, if any;

(e) a supplementary accounting statement if the last annual accounts of any of the merging company relate to a financial year ending more than six months before the first meeting of the company summoned for the purposes of approving the scheme.

(3) The Tribunal, after satisfying itself that the procedure specified in sub-sections (1) and (2) has been complied with, may, by order, sanction the compromise or arrangement or by a subsequent order, make provision for the following matters, namely:—

(a) the transfer to the transferee company of the whole or any part of the undertaking, property or liabilities of the transferor company from a date to be determined by the parties unless the Tribunal, for reasons to be recorded by it in writing, decides otherwise;

(b) the allotment or appropriation by the transferee company of any shares, debentures, policies or other like instruments in the company which, under the compromise or arrangement, are to be allotted or appropriated by that company to or for any person:

Provided that a transferee company shall not, as a result of the compromise or arrangement, hold any shares in its own name or in the name of any trust whether on its behalf or on behalf of any of its subsidiary or associate companies and any such shares shall be cancelled or extinguished;

(c) the continuation by or against the transferee company of any legal proceedings pending by or against any transferor company on the date of transfer;

(d) dissolution, without winding-up, of any transferor company;

(e) the provision to be made for any persons who, within such time and in such manner as the Tribunal directs, dissent from the compromise or arrangement;

(f) where share capital is held by any non-resident shareholder under the foreign direct investment norms or guidelines specified by the Central Government or in accordance with any law for the time being in force, the allotment of shares of the transferee company to such shareholder shall be in the manner specified in the order;

(g) the transfer of the employees of the transferor company to the transferee company;

(h) where the transferor company is a listed company and the transferee company is an unlisted company,—

(A) the transferee company shall remain an unlisted company until it becomes a listed company;

(B) if shareholders of the transferor company decide to opt out of the transferee company, provision shall be made for payment of the value of shares held by them and other benefits in accordance with a pre-determined price formula or after a valuation is made, and the arrangements under this provision may be made by the Tribunal:

Provided that the amount of payment or valuation under this clause for any share shall not be less than what has been specified by the Securities and Exchange Board under any regulations framed by it;

(i) where the transferor company is dissolved, the fee, if any, paid by the transferor company on its authorised capital shall be set-off against any fees payable by the transferee company on its authorised capital subsequent to the amalgamation; and

(j) such incidental, consequential and supplemental matters as are deemed necessary to secure that the merger or amalgamation is fully and effectively carried out:

Provided that no compromise or arrangement shall be sanctioned by the Tribunal unless a certificate by the company's auditor has been filed with the Tribunal to the effect that the accounting treatment, if any, proposed in the scheme of compromise or arrangement is in conformity with the accounting standards prescribed under section 133.

(4) Where an order under this section provides for the transfer of any property or liabilities, then, by virtue of the order, that property shall be transferred to the transferee company and the liabilities shall be transferred to and become the liabilities of the transferee company and any property may, if the order so directs, be freed from any charge which shall by virtue of the compromise or arrangement, cease to have effect.

(5) Every company in relation to which the order is made shall cause a certified copy of the order to be filed with the Registrar for registration within thirty days of the receipt of certified copy of the order.

(6) The scheme under this section shall clearly indicate an appointed date from which it shall be effective and the scheme shall be deemed to be effective from such date and not at a date subsequent to the appointed date.

(7) Every company in relation to which the order is made shall, until the completion of the scheme, file a statement in such form and within such time as may be prescribed with the Registrar every year duly certified by a chartered accountant or a cost accountant or a company secretary in practice indicating whether the scheme is being complied with in accordance with the orders of the Tribunal or not.

¹[(8) If a company fails to comply with sub-section (5), the company and every officer of the company who is in default shall be liable to a penalty of twenty thousand rupees, and where the failure is a continuing one, with a further penalty of one thousand rupees for each day after the first during which such failure continues, subject to a maximum of three lakh rupees.]

Explanation.—For the purposes of this section,—

(i) in a scheme involving a merger, where under the scheme the undertaking, property and liabilities of one or more companies, including the company in respect of which the compromise or arrangement is proposed, are to be transferred to another existing company, it is a merger by absorption, or where the undertaking, property and liabilities of two or more companies, including the company in respect of which the compromise or arrangement is proposed, are to be transferred to a new company, whether or not a public company, it is a merger by formation of a new company;

(ii) references to merging companies are in relation to a merger by absorption, to the transferor and transferee companies, and, in relation to a merger by formation of a new company, to the transferor companies;

(iii) a scheme involves a division, where under the scheme the undertaking, property and liabilities of the company in respect of which the compromise or arrangement is proposed are to be divided among and transferred to two or more companies each of which is either an existing company or a new company; and

(iv) property includes assets, rights and interests of every description and liabilities include debts and obligations of every description.

233. Merger or amalgamation of certain companies.—(1) Notwithstanding the provisions of section 230 and section 232, a scheme of merger or amalgamation may be entered into between two or more small companies or between a holding company and its wholly-owned subsidiary company or such other class or classes of companies as may be prescribed, subject to the following, namely:—

(a) a notice of the proposed scheme inviting objections or suggestions, if any, from the Registrar and Official Liquidators where registered office of the respective companies are situated or persons affected by the scheme within thirty days is issued by the transferor company or companies and the transferee company;

(b) the objections and suggestions received are considered by the companies in their respective general meetings and the scheme is approved by the respective members or class of members at a general meeting holding at least ninety per cent. of the total number of shares;

(c) each of the companies involved in the merger files a declaration of solvency, in the prescribed form, with the Registrar of the place where the registered office of the company is situated; and

(d) the scheme is approved by majority representing nine-tenths in value of the creditors or class of creditors of respective companies indicated in a meeting convened by the company by giving a notice of twenty-one days along with the scheme to its creditors for the purpose or otherwise approved in writing.

(2) The transferee company shall file a copy of the scheme so approved in the manner as may be prescribed, with the Central Government, Registrar and the Official Liquidator where the registered office of the company is situated.

(3) On the receipt of the scheme, if the Registrar or the Official Liquidator has no objections or suggestions to the scheme, the Central Government shall register the same and issue a confirmation thereof to the companies.

(4) If the Registrar or Official Liquidator has any objections or suggestions, he may communicate the same in writing to the Central Government within a period of thirty days:

1. Subs. by Act 29 of 2020, s. 42, for sub-section (8) (w.e.f. 21-12-2020).

Provided that if no such communication is made, it shall be presumed that he has no objection to the scheme.

(5) If the Central Government after receiving the objections or suggestions or for any reason is of the opinion that such a scheme is not in public interest or in the interest of the creditors, it may file an application before the Tribunal within a period of sixty days of the receipt of the scheme under sub-section (2) stating its objections and requesting that the Tribunal may consider the scheme under section 232.

(6) On receipt of an application from the Central Government or from any person, if the Tribunal, for reasons to be recorded in writing, is of the opinion that the scheme should be considered as per the procedure laid down in section 232, the Tribunal may direct accordingly or it may confirm the scheme by passing such order as it deems fit:

Provided that if the Central Government does not have any objection to the scheme or it does not file any application under this section before the Tribunal, it shall be deemed that it has no objection to the scheme.

(7) A copy of the order under sub-section (6) confirming the scheme shall be communicated to the Registrar having jurisdiction over the transferee company and the persons concerned and the Registrar shall register the scheme and issue a confirmation thereof to the companies and such confirmation shall be communicated to the Registrars where transferor company or companies were situated.

(8) The registration of the scheme under sub-section (3) or sub-section (7) shall be deemed to have the effect of dissolution of the transferor company without process of winding-up.

(9) The registration of the scheme shall have the following effects, namely:—

(a) transfer of property or liabilities of the transferor company to the transferee company so that the property becomes the property of the transferee company and the liabilities become the liabilities of the transferee company;

(b) the charges, if any, on the property of the transferor company shall be applicable and enforceable as if the charges were on the property of the transferee company;

(c) legal proceedings by or against the transferor company pending before any court of law shall be continued by or against the transferee company; and

(d) where the scheme provides for purchase of shares held by the dissenting shareholders or settlement of debt due to dissenting creditors, such amount, to the extent it is unpaid, shall become the liability of the transferee company.

(10) A transferee company shall not on merger or amalgamation, hold any shares in its own name or in the name of any trust either on its behalf or on behalf of any of its subsidiary or associate company and all such shares shall be cancelled or extinguished on the merger or amalgamation.

(11) The transferee company shall file an application with the Registrar along with the scheme registered, indicating the revised authorised capital and pay the prescribed fees due on revised capital:

Provided that the fee, if any, paid by the transferor company on its authorised capital prior to its merger or amalgamation with the transferee company shall be set-off against the fees payable by the transferee company on its authorised capital enhanced by the merger or amalgamation.

(12) The provisions of this section shall *mutatis mutandis* apply to a company or companies specified in sub-section (1) in respect of a scheme of compromise or arrangement referred to in section 230 or division or transfer of a company referred to clause (b) of sub-section (1) of section 232.

(13) The Central Government may provide for the merger or amalgamation of companies in such manner as may be prescribed.

(14) A company covered under this section may use the provisions of section 232 for the approval of any scheme for merger or amalgamation.

234. Merger or amalgamation of company with foreign company.—(1) The provisions of this Chapter unless otherwise provided under any other law for the time being in force, shall apply *mutatis*

mutandis to schemes of mergers and amalgamations between companies registered under this Act and companies incorporated in the jurisdictions of such countries as may be notified from time to time by the Central Government:

Provided that the Central Government may make rules, in consultation with the Reserve Bank of India, in connection with mergers and amalgamations provided under this section.

(2) Subject to the provisions of any other law for the time being in force, a foreign company, may with the prior approval of the Reserve Bank of India, merge into a company registered under this Act or *vice versa* and the terms and conditions of the scheme of merger may provide, among other things, for the payment of consideration to the shareholders of the merging company in cash, or in Depository Receipts, or partly in cash and partly in Depository Receipts, as the case may be, as per the scheme to be drawn up for the purpose.

Explanation.—For the purposes of sub-section (2), the expression “foreign company” means any company or body corporate incorporated outside India whether having a place of business in India or not.

235. Power to acquire shares of shareholders dissenting from scheme or contract approved by majority.—(1) Where a scheme or contract involving the transfer of shares or any class of shares in a company (the transferor company) to another company (the transferee company) has, within four months after making of an offer in that behalf by the transferee company, been approved by the holders of not less than nine-tenths in value of the shares whose transfer is involved, other than shares already held at the date of the offer by, or by a nominee of the transferee company or its subsidiary companies, the transferee company may, at any time within two months after the expiry of the said four months, give notice in the prescribed manner to any dissenting shareholder that it desires to acquire his shares.

(2) Where a notice under sub-section (1) is given, the transferee company shall, unless on an application made by the dissenting shareholder to the Tribunal, within one month from the date on which the notice was given and the Tribunal thinks fit to order otherwise, be entitled to and bound to acquire those shares on the terms on which, under the scheme or contract, the shares of the approving shareholders are to be transferred to the transferee company.

(3) Where a notice has been given by the transferee company under sub-section (1) and the Tribunal has not, on an application made by the dissenting shareholder, made an order to the contrary, the transferee company shall, on the expiry of one month from the date on which the notice has been given, or, if an application to the Tribunal by the dissenting shareholder is then pending, after that application has been disposed of, send a copy of the notice to the transferor company together with an instrument of transfer, to be executed on behalf of the shareholder by any person appointed by the transferor company and on its own behalf by the transferee company, and pay or transfer to the transferor company the amount or other consideration representing the price payable by the transferee company for the shares which, by virtue of this section, that company is entitled to acquire, and the transferor company shall—

(a) thereupon register the transferee company as the holder of those shares; and

(b) within one month of the date of such registration, inform the dissenting shareholders of the fact of such registration and of the receipt of the amount or other consideration representing the price payable to them by the transferee company.

(4) Any sum received by the transferor company under this section shall be paid into a separate bank account, and any such sum and any other consideration so received shall be held by that company in trust for the several persons entitled to the shares in respect of which the said sum or other consideration were respectively received and shall be disbursed to the entitled shareholders within sixty days.

(5) In relation to an offer made by a transferee company to shareholders of a transferor company before the commencement of this Act, this section shall have effect with the following modifications, namely:—

(a) in sub-section (1), for the words “the shares whose transfer is involved other than shares already held at the date of the offer by, or by a nominee of, the transferee company or its subsidiaries,”, the words “the shares affected” shall be substituted; and

(b) in sub-section (3), the words “together with an instrument of transfer, to be executed on behalf of the shareholder by any person appointed by the transferee company and on its own behalf by the transferor company” shall be omitted.

Explanation.—For the purposes of this section, “dissenting shareholder” includes a shareholder who has not assented to the scheme or contract and any shareholder who has failed or refused to transfer his shares to the transferee company in accordance with the scheme or contract.

236. Purchase of minority shareholding.—(1) In the event of an acquirer, or a person acting in concert with such acquirer, becoming registered holder of ninety per cent. or more of the issued equity share capital of a company, or in the event of any person or group of persons becoming ninety per cent. majority or holding ninety per cent. of the issued equity share capital of a company, by virtue of an amalgamation, share exchange, conversion of securities or for any other reason, such acquirer, person or group of persons, as the case may be, shall notify the company of their intention to buy the remaining equity shares.

(2) The acquirer, person or group of persons under sub-section (1) shall offer to the minority shareholders of the company for buying the equity shares held by such shareholders at a price determined on the basis of valuation by a registered valuer in accordance with such rules as may be prescribed.

(3) Without prejudice to the provisions of sub-sections (1) and (2), the minority shareholders of the company may offer to the majority shareholders to purchase the minority equity shareholding of the company at the price determined in accordance with such rules as may be prescribed under sub-section (2).

(4) The majority shareholders shall deposit an amount equal to the value of shares to be acquired by them under sub-section (2) or sub-section (3), as the case may be, in a separate bank account to be operated by the ¹[company whose shares are being transferred] for at least one year for payment to the minority shareholders and such amount shall be disbursed to the entitled shareholders within sixty days:

Provided that such disbursement shall continue to be made to the entitled shareholders for a period of one year, who for any reason had not been made disbursement within the said period of sixty days or if the disbursement have been made within the aforesaid period of sixty days, fail to receive or claim payment arising out of such disbursement.

(5) In the event of a purchase under this section, the ²[company whose shares are being transferred] shall act as a transfer agent for receiving and paying the price to the minority shareholders and for taking delivery of the shares and delivering such shares to the majority, as the case may be.

(6) In the absence of a physical delivery of shares by the shareholders within the time specified by the company, the share certificates shall be deemed to be cancelled, and the ¹[company whose shares are being transferred] shall be authorised to issue shares in lieu of the cancelled shares and complete the transfer in accordance with law and make payment of the price out of deposit made under sub-section (4) by the majority in advance to the minority by dispatch of such payment.

(7) In the event of a majority shareholder or shareholders requiring a full purchase and making payment of price by deposit with the company for any shareholder or shareholders who have died or ceased to exist, or whose heirs, successors, administrators or assignees have not been brought on record by transmission, the right of such shareholders to make an offer for sale of minority equity shareholding shall continue and be available for a period of three years from the date of majority acquisition or majority shareholding.

(8) Where the shares of minority shareholders have been acquired in pursuance of this section and as on or prior to the date of transfer following such acquisition, the shareholders holding seventy-five per cent. or more minority equity shareholding negotiate or reach an understanding on a higher price for any transfer, proposed or agreed upon, of the shares held by them without disclosing the fact or likelihood of transfer taking place on the basis of such negotiation, understanding or agreement, the majority shareholders shall share the additional compensation so received by them with such minority shareholders on a *pro rata* basis.

1. Subs. by Act 1 of 2018, s. 73, for “transferor company” (w.e.f. 9-2-2018).

2. Subs. by Act 1 of 2018, s. 73, for “transferor company” (w.e.f. 9-2-2018).

Explanation.—For the purposes of this section, the expressions “acquirer” and “person acting in concert” shall have the meanings respectively assigned to them in clause (b) and clause (e) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997.

(9) When a shareholder or the majority equity shareholder fails to acquire full purchase of the shares of the minority equity shareholders, then, the provisions of this section shall continue to apply to the residual minority shareholders, even though,—

(a) the shares of the company of the residual minority equity shareholder had been delisted; and

(b) the period of one year or the period specified in the regulations made by the Securities and Exchange Board under the Securities and Exchange Board of India Act, 1992 (15 of 1992), had elapsed.

237. Power of Central Government to provide for amalgamation of companies in public interest.—(1) Where the Central Government is satisfied that it is essential in the public interest that two or more companies should amalgamate, the Central Government may, by order notified in the Official Gazette, provide for the amalgamation of those companies into a single company with such constitution, with such property, powers, rights, interests, authorities and privileges, and with such liabilities, duties and obligations, as may be specified in the order.

(2) The order under sub-section (1) may also provide for the continuation by or against the transferee company of any legal proceedings pending by or against any transferor company and such consequential, incidental and supplemental provisions as may, in the opinion of the Central Government, be necessary to give effect to the amalgamation.

(3) Every member or creditor, including a debenture holder, of each of the transferor companies before the amalgamation shall have, as nearly as may be, the same interest in or rights against the transferee company as he had in the company of which he was originally a member or creditor, and in case the interest or rights of such member or creditor in or against the transferee company are less than his interest in or rights against the original company, he shall be entitled to compensation to that extent, which shall be assessed by such authority as may be prescribed and every such assessment shall be published in the Official Gazette, and the compensation so assessed shall be paid to the member or creditor concerned by the transferee company.

(4) Any person aggrieved by any assessment of compensation made by the prescribed authority under sub-section (3) may, within a period of thirty days from the date of publication of such assessment in the Official Gazette, prefer an appeal to the Tribunal and thereupon the assessment of the compensation shall be made by the Tribunal.

(5) No order shall be made under this section unless—

(a) a copy of the proposed order has been sent in draft to each of the companies concerned;

(b) the time for preferring an appeal under sub-section (4) has expired, or where any such appeal has been preferred, the appeal has been finally disposed off; and

(c) the Central Government has considered, and made such modifications, if any, in the draft order as it may deem fit in the light of suggestions and objections which may be received by it from any such company within such period as the Central Government may fix in that behalf, not being less than two months from the date on which the copy aforesaid is received by that company, or from any class of shareholders therein, or from any creditors or any class of creditors thereof.

(6) The copies of every order made under this section shall, as soon as may be after it has been made, be laid before each House of Parliament.

238. Registration of offer of schemes involving transfer of shares.—(1) In relation to every offer of a scheme or contract involving the transfer of shares or any class of shares in the transferor company to the transferee company under section 235,—

(a) every circular containing such offer and recommendation to the members of the transferor company by its directors to accept such offer shall be accompanied by such information and in such manner as may be prescribed;

(b) every such offer shall contain a statement by or on behalf of the transferee company, disclosing the steps it has taken to ensure that necessary cash will be available; and

(c) every such circular shall be presented to the Registrar for registration and no such circular shall be issued until it is so registered:

Provided that the Registrar may refuse, for reasons to be recorded in writing, to register any such circular which does not contain the information required to be given under clause (a) or which sets out such information in a manner likely to give a false impression, and communicate such refusal to the parties within thirty days of the application.

(2) An appeal shall lie to the Tribunal against an order of the Registrar refusing to register any circular under sub-section (1).

(3) The director who issues a circular which has not been presented for registration and registered under clause (c) of sub-section (1), shall be ¹[liable to a penalty of one lakh rupees.]

239. Preservation of books and papers of amalgamated companies.—The books and papers of a company which has been amalgamated with, or whose shares have been acquired by, another company under this Chapter shall not be disposed of without the prior permission of the Central Government and before granting such permission, that Government may appoint a person to examine the books and papers or any of them for the purpose of ascertaining whether they contain any evidence of the commission of an offence in connection with the promotion or formation, or the management of the affairs, of the transferor company or its amalgamation or the acquisition of its shares.

240. Liability of officers in respect of offences committed prior to merger, amalgamation, etc.—Notwithstanding anything in any other law for the time being in force, the liability in respect of offences committed under this Act by the officers in default, of the transferor company prior to its merger, amalgamation or acquisition shall continue after such merger, amalgamation or acquisition.

CHAPTER XVI

PREVENTION OF OPPRESSION AND MISMANAGEMENT

241. Application to Tribunal for relief in cases of oppression, etc.—(1) Any member of a company who complains that—

(a) the affairs of the company have been or are being conducted in a manner prejudicial to public interest or in a manner prejudicial or oppressive to him or any other member or members or in a manner prejudicial to the interests of the company; or

(b) the material change, not being a change brought about by, or in the interests of, any creditors, including debenture holders or any class of shareholders of the company, has taken place in the management or control of the company, whether by an alteration in the Board of Directors, or manager, or in the ownership of the company's shares, or if it has no share capital, in its membership, or in any other manner whatsoever, and that by reason of such change, it is likely that the affairs of the company will be conducted in a manner prejudicial to its interests or its members or any class of members,

may apply to the Tribunal, provided such member has a right to apply under section 244, for an order under this Chapter.

(2) The Central Government, if it is of the opinion that the affairs of the company are being conducted in a manner prejudicial to public interest, it may itself apply to the Tribunal for an order under this Chapter.

1. Subs. by Act 22 of 2019, s. 32, for "punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees" (w.e.f. 2-11-2018).

¹[Provided that the applicants under this sub-section, in respect of such company or class of companies, as may be prescribed, shall be made before the Principal Bench of the Tribunal which shall be dealt with by such Bench.]

¹[(3) Where in the opinion of the Central Government there exist circumstances suggesting that—

(a) any person concerned in the conduct and management of the affairs of a company is or has been in connection therewith guilty of fraud, misfeasance, persistent negligence or default in carrying out his obligations and functions under the law or of breach of trust;

(b) the business of a company is not or has not been conducted and managed by such person in accordance with sound business principle or prudent commercial practices;

(c) a company is or has been conducted and managed by such person in a manner which likely to cause, or has caused, serious injury or damage to the interest of the trade, industry or business to which such company pertains; or

(d) the business of a company is or has been conducted and managed by such person with intent to default its creditors, members or any other person or otherwise for a fraudulent or unlawful purpose or in a manner prejudicial to public interest,

the Central Government may initiate a case against such person and refer the same to the Tribunal with a request that the Tribunal may inquire into the case and record a decision as to whether or not such person is a fit and proper person to hold the office of director or any other office connected with the conduct and management of any company.

(4) The person against whom a case is referred to the Tribunal under sub-section (3), shall be jointed as a respondent to the application.

(5) Every application under sub-section (3)—

(a) shall contain a concise statement of such circumstances and materials as the Central Government may consider necessary for the purpose of the inquiry; and

(b) shall be signed and verified in the manner laid down in the Code of Civil Procedure (5 of 1908), for the signature and verification of a plaint in a suit by the Central Government.]

242. Powers of Tribunal.—(1) If, on any application made under section 241, the Tribunal is of the opinion—

(a) that the company's affairs have been or are being conducted in a manner prejudicial or oppressive to any member or members or prejudicial to public interest or in a manner prejudicial to the interests of the company; and

(b) that to wind up the company would unfairly prejudice such member or members, but that otherwise the facts would justify the making of a winding-up order on the ground that it was just and equitable that the company should be wound up,

the Tribunal may, with a view to bringing to an end the matters complained of, make such order as it thinks fit.

(2) Without prejudice to the generality of the powers under sub-section (1), an order under that sub-section may provide for—

(a) the regulation of conduct of affairs of the company in future;

(b) the purchase of shares or interests of any members of the company by other members thereof or by the company;

(c) in the case of a purchase of its shares by the company as aforesaid, the consequent reduction of its share capital;

(d) restrictions on the transfer or allotment of the shares of the company;

1. Ins. by Act 22 of 2019, s. 33 (w.e.f. 15-8-2019).

(e) the termination, setting aside or modification, of any agreement, howsoever arrived at, between the company and the managing director, any other director or manager, upon such terms and conditions as may, in the opinion of the Tribunal, be just and equitable in the circumstances of the case;

(f) the termination, setting aside or modification of any agreement between the company and any person other than those referred to in clause (e):

Provided that no such agreement shall be terminated, set aside or modified except after due notice and after obtaining the consent of the party concerned;

(g) the setting aside of any transfer, delivery of goods, payment, execution or other act relating to property made or done by or against the company within three months before the date of the application under this section, which would, if made or done by or against an individual, be deemed in his insolvency to be a fraudulent preference;

(h) removal of the managing director, manager or any of the directors of the company;

(i) recovery of undue gains made by any managing director, manager or director during the period of his appointment as such and the manner of utilisation of the recovery including transfer to Investor Education and Protection Fund or repayment to identifiable victims;

(j) the manner in which the managing director or manager of the company may be appointed subsequent to an order removing the existing managing director or manager of the company made under clause (h);

(k) appointment of such number of persons as directors, who may be required by the Tribunal to report to the Tribunal on such matters as the Tribunal may direct;

(l) imposition of costs as may be deemed fit by the Tribunal;

(m) any other matter for which, in the opinion of the Tribunal, it is just and equitable that provision should be made.

(3) A certified copy of the order of the Tribunal under sub-section (1) shall be filed by the company with the Registrar within thirty days of the order of the Tribunal.

(4) The Tribunal may, on the application of any party to the proceeding, make any interim order which it thinks fit for regulating the conduct of the company's affairs upon such terms and conditions as appear to it to be just and equitable.

¹[(4A) At the conclusion of the hearing of the case in respect of sub-section (3) of section 241, the Tribunal shall record its decision stating therein specifically as to whether or not respondent is a fit and proper person to hold the officer of director or any other officer connected with the conduct and management of any company.]

(5) Where an order of the Tribunal under sub-section (1) makes any alteration in the memorandum or articles of a company, then, notwithstanding any other provision of this Act, the company shall not have power, except to the extent, if any, permitted in the order, to make, without the leave of the Tribunal, any alteration whatsoever which is inconsistent with the order, either in the memorandum or in the articles.

(6) Subject to the provisions of sub-section (1), the alterations made by the order in the memorandum or articles of a company shall, in all respects, have the same effect as if they had been duly made by the company in accordance with the provisions of this Act and the said provisions shall apply accordingly to the memorandum or articles so altered.

(7) A certified copy of every order altering, or giving leave to alter, a company's memorandum or articles, shall within thirty days after the making thereof, be filed by the company with the Registrar who shall register the same.

(8) If a company contravenes the provisions of sub-section (5), the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees and every

1. Ins. by Act 22 of 2019, s. 34 (w.e.f. 15-8-2019).

officer of the company who is in default shall be punishable ^{1***} with fine which shall not be less than twenty-five thousand rupees but which may extend to ²[one lakh rupees].

243. Consequence of termination or modification of certain agreements.—(1) Where an order made under section 242 terminates, sets aside or modifies an agreement such as is referred to in sub-section (2) of that section,—

(a) such order shall not give rise to any claims whatever against the company by any person for damages or for compensation for loss of office or in any other respect either in pursuance of the agreement or otherwise;

(b) no managing director or other director or manager whose agreement is so terminated or set aside shall, for a period of five years from the date of the order terminating or setting aside the agreement, without the leave of the Tribunal, be appointed, or act, as the managing director or other director or manager of the company:

Provided that the Tribunal shall not grant leave under this clause unless notice of the intention to apply for leave has been served on the Central Government and that Government has been given a reasonable opportunity of being heard in the matter.

³[(IA) The person who is not a fit and proper person pursuant to sub-section (4A) of section 242 shall not hold the officer of a director or any other officer connected with the conduct and management of the affairs of any other officer connected with the conduct and management of the affairs of any company for a period of five years from the date of the said decision:

Provided that the Central Government may, with the leave of the Tribunal, permit such person to hold any such office before the expiry of the said period of five years.

(IB) Notwithstanding anything contained in any other provisions of this Act, or any other law for the time being in force, or any contract, memorandum or articles, on the removal of a person from the officer of a director or any other officer connected with the conduct and management of the affairs of the company, that person shall not be entitled to, or be paid, any compensation for the loss or termination of officer.]

(2) Any person who knowingly acts as a managing director or other director or manager of a company in contravention of clause (b) of sub-section (I) ⁴[or sub-section (IA)], and every other director of the company who is knowingly a party to such contravention, shall be punishable ^{5***} with fine which may extend to ⁶[five lakh rupees].

244. Right to apply under section 241.—(1) The following members of a company shall have the right to apply under section 241, namely:—

(a) in the case of a company having a share capital, not less than one hundred members of the company or not less than one-tenth of the total number of its members, whichever is less, or any member or members holding not less than one-tenth of the issued share capital of the company, subject to the condition that the applicant or applicants has or have paid all calls and other sums due on his or their shares;

(b) in the case of a company not having a share capital, not less than one-fifth of the total number of its members:

Provided that the Tribunal may, on an application made to it in this behalf, waive all or any of the requirements specified in clause (a) or clause (b) so as to enable the members to apply under section 241.

Explanation.—For the purposes of this sub-section, where any share or shares are held by two or more persons jointly, they shall be counted only as one member.

-
1. The words “with imprisonment for a term which may extend to six months or” omitted by Act 29 of 2020, s. 43 (w.e.f. 21-12-2020).
 2. Subs. by s. 43, *ibid.*, for “one lakh rupees, or with both” (w.e.f. 21-12-2020).
 3. Ins. by Act 22 of 2019, s. 35 (w.e.f. 15-8-2019).
 4. Ins. by Act 22 of 2019, s. 35 (w.e.f. 15-8-2019).
 5. The words “with imprisonment for a term which may extend to six months or” omitted by Act 29 of 2020, s. 44 (w.e.f. 21-12-2020).
 6. Subs. by s. 44, *ibid.*, for “five lakh rupees, or with both” (w.e.f. 21-12-2020).

(2) Where any members of a company are entitled to make an application under sub-section (1), any one or more of them having obtained the consent in writing of the rest, may make the application on behalf and for the benefit of all of them.

245. Class action.—(1) Such number of member or members, depositor or depositors or any class of them, as the case may be, as are indicated in sub-section (2) may, if they are of the opinion that the management or conduct of the affairs of the company are being conducted in a manner prejudicial to the interests of the company or its members or depositors, file an application before the Tribunal on behalf of the members or depositors for seeking all or any of the following orders, namely:—

(a) to restrain the company from committing an act which is *ultra vires* the articles or memorandum of the company;

(b) to restrain the company from committing breach of any provision of the company's memorandum or articles;

(c) to declare a resolution altering the memorandum or articles of the company as void if the resolution was passed by suppression of material facts or obtained by mis-statement to the members or depositors;

(d) to restrain the company and its directors from acting on such resolution;

(e) to restrain the company from doing an act which is contrary to the provisions of this Act or any other law for the time being in force;

(f) to restrain the company from taking action contrary to any resolution passed by the members;

(g) to claim damages or compensation or demand any other suitable action from or against—

(i) the company or its directors for any fraudulent, unlawful or wrongful act or omission or conduct or any likely act or omission or conduct on its or their part;

(ii) the auditor including audit firm of the company for any improper or misleading statement of particulars made in his audit report or for any fraudulent, unlawful or wrongful act or conduct; or

(iii) any expert or advisor or consultant or any other person for any incorrect or misleading statement made to the company or for any fraudulent, unlawful or wrongful act or conduct or any likely act or conduct on his part;

(h) to seek any other remedy as the Tribunal may deem fit.

(2) Where the members or depositors seek any damages or compensation or demand any other suitable action from or against an audit firm, the liability shall be of the firm as well as of each partner who was involved in making any improper or misleading statement of particulars in the audit report or who acted in a fraudulent, unlawful or wrongful manner.

(3) (i) The requisite number of members provided in sub-section (1) shall be as under:—

(a) in the case of a company having a share capital, not less than one hundred members of the company or not less than such percentage of the total number of its members as may be prescribed, whichever is less, or any member or members holding not less than such percentage of the issued share capital of the company as may be prescribed, subject to the condition that the applicant or applicants has or have paid all calls and other sums due on his or their shares;

(b) in the case of a company not having a share capital, not less than one-fifth of the total number of its members.

(ii) The requisite number of depositors provided in sub-section (1) shall not be less than one hundred depositors or not less than such percentage of the total number of depositors as may be prescribed, whichever is less, or any depositor or depositors to whom the company owes such percentage of total deposits of the company as may be prescribed.

(4) In considering an application under sub-section (1), the Tribunal shall take into account, in particular—

(a) whether the member or depositor is acting in good faith in making the application for seeking an order;

(b) any evidence before it as to the involvement of any person other than directors or officers of the company on any of the matters provided in clauses (a) to (f) of sub-section (1);

(c) whether the cause of action is one which the member or depositor could pursue in his own right rather than through an order under this section;

(d) any evidence before it as to the views of the members or depositors of the company who have no personal interest, direct or indirect, in the matter being proceeded under this section;

(e) where the cause of action is an act or omission that is yet to occur, whether the act or omission could be, and in the circumstances would be likely to be—

(i) authorised by the company before it occurs; or

(ii) ratified by the company after it occurs;

(f) where the cause of action is an act or omission that has already occurred, whether the act or omission could be, and in the circumstances would be likely to be, ratified by the company.

(5) If an application filed under sub-section (1) is admitted, then the Tribunal shall have regard to the following, namely:—

(a) public notice shall be served on admission of the application to all the members or depositors of the class in such manner as may be prescribed;

(b) all similar applications prevalent in any jurisdiction should be consolidated into a single application and the class members or depositors should be allowed to choose the lead applicant and in the event the members or depositors of the class are unable to come to a consensus, the Tribunal shall have the power to appoint a lead applicant, who shall be in charge of the proceedings from the applicant's side;

(c) two class action applications for the same cause of action shall not be allowed;

(d) the cost or expenses connected with the application for class action shall be defrayed by the company or any other person responsible for any oppressive act.

(6) Any order passed by the Tribunal shall be binding on the company and all its members, depositors and auditor including audit firm or expert or consultant or advisor or any other person associated with the company.

(7) Any company which fails to comply with an order passed by the Tribunal under this section shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years and with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

(8) Where any application filed before the Tribunal is found to be frivolous or vexatious, it shall, for reasons to be recorded in writing, reject the application and make an order that the applicant shall pay to the opposite party such cost, not exceeding one lakh rupees, as may be specified in the order.

(9) Nothing contained in this section shall apply to a banking company.

(10) Subject to the compliance of this section, an application may be filed or any other action may be taken under this section by any person, group of persons or any association of persons representing the persons affected by any act or omission, specified in sub-section (1).

246. Application of certain provisions to proceedings under section 241 or section 245.—The provisions of sections 337 to 341 (both inclusive) shall apply *mutatis mutandis*, in relation to an application made to the Tribunal under section 241 or section 245.

CHAPTER XVII

REGISTERED VALUERS

247. Valuation by registered valuers.—(1) Where a valuation is required to be made in respect of any property, stocks, shares, debentures, securities or goodwill or any other assets (herein referred to as the assets) or net worth of a company or its liabilities under the provision of this Act, it shall be valued by ¹[a person having such qualifications and experience, registered as a valuer and being a member of an organisation recognised, in such manner, on such terms and conditions as may be prescribed] and appointed by the audit committee or in its absence by the Board of Directors of that company.

(2) The valuer appointed under sub-section (1) shall,—

- (a) make an impartial, true and fair valuation of any assets which may be required to be valued;
- (b) exercise due diligence while performing the functions as valuer;
- (c) make the valuation in accordance with such rules as may be prescribed; and
- (d) not undertake valuation of any assets in which he has a direct or indirect interest or becomes so interested at any time ²[during a period of three years prior to his appointments as valuer or three years after the valuation of assets was conducted by him].

(3) If a valuer contravenes the provisions of this section or the rules made thereunder, the valuer shall be ³[liable to a penalty of fifty thousand rupees]:

Provided that if the valuer has contravened such provisions with the intention to defraud the company or its members, he shall be punishable with imprisonment for a term which may extend to one year and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

(4) Where a valuer has been convicted under sub-section (3), he shall be liable to—

- (i) refund the remuneration received by him to the company; and
- (ii) pay for damages to the company or to any other person for loss arising out of incorrect or misleading statements of particulars made in his report.

CHAPTER XVIII

REMOVAL OF NAMES OF COMPANIES FROM THE REGISTER OF COMPANIES

248. Power of Registrar to remove name of company from register of companies.—(1) Where the Registrar has reasonable cause to believe that—

(a) a company has failed to commence its business within one year of its incorporation;⁴[or]
^{5*} * * *

(c) a company is not carrying on any business or operation for a period of two immediately preceding financial years and has not made any application within such period for obtaining the status of a dormant company under ⁶[section 455; or]

⁷[(d) the subscribers to the memorandum have not paid the subscription which they had undertaken to pay at the time of incorporation of a company and a declaration to this effect has not been filed within one hundred and eighty days of its incorporation under sub-section (1) of section 10A; or

(e) the company is not carrying on any business or operations, as revealed after the physical verification carried out under sub-section (9) of section 12.]

he shall send a notice to the company and all the directors of the company, of his intention to remove the name of the company from the register of companies and requesting them to send their representations along with copies of the relevant documents, if any, within a period of thirty days from the date of the notice.

1. Subs. by Notification No. S.O. 3400(E), s. 2 for certain words (w.e.f. 23-10-2017).

2. Subs. by Act 1 of 2018, s. 74, for “during or after the valuation of assets” (w.e.f. 9-2-2018).

3. Subs. by *vide* Notification No. S.O. 1303(E), for certain words (w.e.f. 24-3-2021).

4. Ins. by Act 21 of 2015, s. 19 (w.e.f. 29-5-2015).

5. Clause (b) omitted by s. 19, *ibid.* (w.e.f. 29-5-2015).

6. Subs. by Act 22 of 2019, s. 36, for “section 455,” (w.e.f. 2-11-2018).

7. Ins. by s. 36, *ibid.* (w.e.f. 2-11-2018).

(2) Without prejudice to the provisions of sub-section (1), a company may, after extinguishing all its liabilities, by a special resolution or consent of seventy-five per cent. members in terms of paid-up share capital, file an application in the prescribed manner to the Registrar for removing the name of the company from the register of companies on all or any of the grounds specified in sub-section (1) and the Registrar shall, on receipt of such application, cause a public notice to be issued in the prescribed manner:

Provided that in the case of a company regulated under a special Act, approval of the regulatory body constituted or established under that Act shall also be obtained and enclosed with the application.

(3) Nothing in sub-section (2) shall apply to a company registered under section 8.

(4) A notice issued under sub-section (1) or sub-section (2) shall be published in the prescribed manner and also in the Official Gazette for the information of the general public.

(5) At the expiry of the time mentioned in the notice, the Registrar may, unless cause to the contrary is shown by the company, strike off its name from the register of companies, and shall publish notice thereof in the Official Gazette, and on the publication in the Official Gazette of this notice, the company shall stand dissolved.

(6) The Registrar, before passing an order under sub-section (5), shall satisfy himself that sufficient provision has been made for the realisation of all amount due to the company and for the payment or discharge of its liabilities and obligations by the company within a reasonable time and, if necessary, obtain necessary undertakings from the managing director, director or other persons in charge of the management of the company:

Provided that notwithstanding the undertakings referred to in this sub-section, the assets of the company shall be made available for the payment or discharge of all its liabilities and obligations even after the date of the order removing the name of the company from the register of companies.

(7) The liability, if any, of every director, manager or other officer who was exercising any power of management, and of every member of the company dissolved under sub-section (5), shall continue and may be enforced as if the company had not been dissolved.

(8) Nothing in this section shall affect the power of the Tribunal to wind up a company the name of which has been struck off from the register of companies.

249. Restrictions on making application under section 248 in certain situations.—(1) An application under sub-section (2) of section 248 on behalf of a company shall not be made if, at any time in the previous three months, the company—

(a) has changed its name or shifted its registered office from one State to another;

(b) has made a disposal for value of property or rights held by it, immediately before cesser of trade or otherwise carrying on of business, for the purpose of disposal for gain in the normal course of trading or otherwise carrying on of business;

(c) has engaged in any other activity except the one which is necessary or expedient for the purpose of making an application under that section, or deciding whether to do so or concluding the affairs of the company, or complying with any statutory requirement;

(d) has made an application to the Tribunal for the sanctioning of a compromise or arrangement and the matter has not been finally concluded; or

¹[(e) is being wound up under Chapter XX of this Act or under the Insolvency and Bankruptcy Code, 2016 (31 of 2016).]

(2) If a company files an application under sub-section (2) of section 248 in violation of sub-section (1), it shall be punishable with fine which may extend to one lakh rupees.

(3) An application filed under sub-section (2) of section 248 shall be withdrawn by the company or rejected by the Registrar as soon as conditions under sub-section (1) are brought to his notice.

1. Subs. by Act 31 of 2016, s. 255 and the Eleventh Schedule, for clause (e) (w.e.f. 15-11-2016).

250. Effect of company notified as dissolved.—Where a company stands dissolved under section 248, it shall on and from the date mentioned in the notice under sub-section (5) of that section cease to operate as a company and the Certificate of Incorporation issued to it shall be deemed to have been cancelled from such date except for the purpose of realising the amount due to the company and for the payment or discharge of the liabilities or obligations of the company.

251. Fraudulent application for removal of name.—(1) Where it is found that an application by a company under sub-section (2) of section 248 has been made with the object of evading the liabilities of the company or with the intention to deceive the creditors or to defraud any other persons, the persons in charge of the management of the company shall, notwithstanding that the company has been notified as dissolved—

(a) be jointly and severally liable to any person or persons who had incurred loss or damage as a result of the company being notified as dissolved; and

(b) be punishable for fraud in the manner as provided in section 447.

(2) Without prejudice to the provisions contained in sub-section (1), the Registrar may also recommend prosecution of the persons responsible for the filing of an application under sub-section (2) of section 248.

252. Appeal to Tribunal.—(1) Any person aggrieved by an order of the Registrar, notifying a company as dissolved under section 248, may file an appeal to the Tribunal within a period of three years from the date of the order of the Registrar and if the Tribunal is of the opinion that the removal of the name of the company from the register of companies is not justified in view of the absence of any of the grounds on which the order was passed by the Registrar, it may order restoration of the name of the company in the register of companies:

Provided that before passing any order under this section, the Tribunal shall give a reasonable opportunity of making representations and of being heard to the Registrar, the company and all the persons concerned:

Provided further that if the Registrar is satisfied, that the name of the company has been struck off from the register of companies either inadvertently or on the basis of incorrect information furnished by the company or its directors, which requires restoration in the register of companies, he may within a period of three years from the date of passing of the order dissolving the company under section 248, file an application before the Tribunal seeking restoration of name of such company.

(2) A copy of the order passed by the Tribunal shall be filed by the company with the Registrar within thirty days from the date of the order and on receipt of the order, the Registrar shall cause the name of the company to be restored in the register of companies and shall issue a fresh certificate of incorporation.

(3) If a company, or any member or creditor or workman thereof feels aggrieved by the company having its name struck off from the register of companies, the Tribunal on an application made by the company, member, creditor or workman before the expiry of twenty years from the publication in the Official Gazette of the notice under sub-section (5) of section 248 may, if satisfied that the company was, at the time of its name being struck off, carrying on business or in operation or otherwise it is just that the name of the company be restored to the register of companies, order the name of the company to be restored to the register of companies, and the Tribunal may, by the order, give such other directions and make such provisions as deemed just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off from the register of companies.

CHAPTER XIX

REVIVAL AND REHABILITATION OF SICK COMPANIES

253. [Determination of sickness.] Omitted by the Insolvency and Bankruptcy Code, 2016 (31 of 2016), s. 255 and the Eleventh Schedule (w.e.f. 15-11-2016).

254. [Application for revival and rehabilitation.] Omitted by s. 255 and the Eleventh Schedule, *ibid.* (w.e.f. 15-11-2016).

255. [Exclusion of certain time in computing period of limitation.] Omitted by s. 255 and the Eleventh Schedule, *ibid.* (w.e.f. 15-11-2016).

256. [Appointment of interim administrator.] Omitted by s. 255 and the Eleventh Schedule, *ibid.* (w.e.f. 15-11-2016).

257. [Committee of creditors.] Omitted by s. 255 and the Eleventh Schedule, *ibid.* (w.e.f. 15-11-2016).

258. [Order of Tribunal.] Omitted by s. 255 and the Eleventh Schedule, *ibid.* (w.e.f. 15-11-2016).

259. [Appointment of administrator.] Omitted by s. 255 and the Eleventh Schedule, *ibid.* (w.e.f. 15-11-2016).

260. [Powers and duties of company administrator.] Omitted by s. 255 and the Eleventh Schedule, *ibid.* (w.e.f. 15-11-2016).

261. [Scheme of revival and rehabilitation.] Omitted by s. 255 and the Eleventh Schedule, *ibid.* (w.e.f. 15-11-2016).

262. [Sanction of scheme.] Omitted by s. 255 and the Eleventh Schedule, *ibid.* (w.e.f. 15-11-2016).

263. [Scheme to be binding.] Omitted by s. 255 and the Eleventh Schedule, *ibid.* (w.e.f. 15-11-2016).

264. [Implementation of scheme.] Omitted by s. 255 and the Eleventh Schedule, *ibid.* (w.e.f. 15-11-2016).

265. [Winding up of company on report of company administrator.] Omitted by s. 255 and the Eleventh Schedule, *ibid.* (w.e.f. 15-11-2016).

266. [Power of Tribunal to assess damages against delinquent directors, etc.] Omitted by the Insolvency and Bankruptcy Code, 2016 (31 of 2016), s. 255 and the Eleventh Schedule (w.e.f. 15-11-2016).

267. [Punishment for certain offences.] Omitted by s. 255 and the Eleventh Schedule, *ibid.* (w.e.f. 15-11-2016).

268. [Bar of jurisdiction.] Omitted by s. 255 and the Eleventh Schedule, *ibid.* (w.e.f. 15-11-2016).

269. [Rehabilitation and insolvency fund.] Omitted by s. 255 and the Eleventh Schedule, *ibid.* (w.e.f. 15-11-2016).

CHAPTER XX

WINDING UP

¹[270. Winding up by Tribunal.]—The provisions of Part I shall apply to the winding up of a company by the Tribunal under this Act.]

PART I.—*Winding up by the Tribunal*

²[271. Circumstances in which company may be wound up by Tribunal.]—A company may, on a petition under section 272, be wound up by the Tribunal,—

(a) if the company has, by special resolution, resolved that the company be wound up by the Tribunal;

(b) if the company has acted against the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality;

(c) if on an application made by the Registrar or any other person authorised by the Central Government by notification under this Act, the Tribunal is of the opinion that the affairs of the company have been conducted in a fraudulent manner or the company was formed for fraudulent and unlawful purpose or the persons concerned in the formation or management of its affairs have been guilty of fraud, misfeasance or misconduct in connection therewith and that it is proper that the company be wound up;

(d) if the company has made a default in filing with the Registrar its financial statements or annual returns for immediately preceding five consecutive financial years; or

1. Subs. by Act 31 of 2016, s. 255 and the Eleventh Schedule, for section 270 (w.e.f. 15-11-2016).

2. Subs. by s. 255 and the Eleventh Schedule, *ibid.*, for section 271 (w.e.f. 15-11-2016).

(e) if the Tribunal is of the opinion that it is just and equitable that the company should be wound up.]

¹[**272. Petition for winding up.**—(1) Subject to the provisions of this section, a petition to the Tribunal for the winding up of a company shall be presented by—

(a) the company;

(b) any contributory or contributories;

(c) all or any of the persons specified in clauses (a) and (b);

(d) the Registrar;

(e) any person authorised by the Central Government in that behalf; or

(f) in a case falling under clause (b) of section 271, by the Central Government or a State Government.

(2) A contributory shall be entitled to present a petition for the winding up of a company, notwithstanding that he may be the holder of fully paid-up shares, or that the company may have no assets at all or may have no surplus assets left for distribution among the shareholders after the satisfaction of its liabilities, and shares in respect of which he is a contributory or some of them were either originally allotted to him or have been held by him, and registered in his name, for at least six months during the eighteen months immediately before the commencement of the winding up or have devolved on him through the death of a former holder.

(3) The Registrar shall be entitled to present a petition for winding up under section 271, except on the grounds specified in clause (a)²[of that section]:

Provided that the Registrar shall obtain the previous sanction of the Central Government to the presentation of a petition:

Provided further that the Central Government shall not accord its sanction unless the company has been given a reasonable opportunity of making representations.

(4) A petition presented by the company for winding up before the Tribunal shall be admitted only if accompanied by a statement of affairs in such form and in such manner as may be prescribed.

(5) A copy of the petition made under this section shall also be filed with the Registrar and the Registrar shall, without prejudice to any other provisions, submit his views to the Tribunal within sixty days of receipt of such petition.]

273. Powers of Tribunal.—(1) The Tribunal may, on receipt of a petition for winding up under section 272 pass any of the following orders, namely:—

(a) dismiss it, with or without costs;

(b) make any interim order as it thinks fit;

(c) appoint a provisional liquidator of the company till the making of a winding up order;

(d) make an order for the winding up of the company with or without costs; or

(e) any other order as it thinks fit:

Provided that an order under this sub-section shall be made within ninety days from the date of presentation of the petition:

1. Subs. by Act 31 of 2016, s. 255 and the Eleventh Schedule, for section 272 (w.e.f. 15-11-2016).

2. Subs. by Act 22 of 2019, s. 37, for “or clause (e) of that sub-section” (w.e.f. 15-8-2019).

Provided further that before appointing a provisional liquidator under clause (c), the Tribunal shall give notice to the company and afford a reasonable opportunity to it to make its representations, if any, unless for special reasons to be recorded in writing, the Tribunal thinks fit to dispense with such notice:

Provided also that the Tribunal shall not refuse to make a winding up order on the ground only that the assets of the company have been mortgaged for an amount equal to or in excess of those assets, or that the company has no assets.

(2) Where a petition is presented on the ground that it is just and equitable that the company should be wound up, the Tribunal may refuse to make an order of winding up, if it is of the opinion that some other remedy is available to the petitioners and that they are acting unreasonably in seeking to have the company wound up instead of pursuing the other remedy.

274. Directions for filing statement of affairs.—(1) Where a petition for winding up is filed before the Tribunal by any person other than the company, the Tribunal shall, if satisfied that a *prima facie* case for winding up of the company is made out, by an order direct the company to file its objections along with a statement of its affairs within thirty days of the order in such form and in such manner as may be prescribed:

Provided that the Tribunal may allow a further period of thirty days in a situation of contingency or special circumstances:

Provided further that the Tribunal may direct the petitioner to deposit such security for costs as it may consider reasonable as a precondition to issue directions to the company.

(2) A company, which fails to file the statement of affairs as referred to in sub-section (1), shall forfeit the right to oppose the petition and such directors and officers of the company as found responsible for such non-compliance, shall be liable for punishment under sub-section (4).

(3) The directors and other officers of the company, in respect of which an order for winding up is passed by the Tribunal under clause (d) of sub-section (1) of section 273, shall, within a period of thirty days of such order, submit, at the cost of the company, the books of account of the company completed and audited up to the date of the order, to such liquidator and in the manner specified by the Tribunal.

(4) If any director or officer of the company contravenes the provisions of this section, the director or the officer of the company who is in default shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees, or with both.

(5) The complaint may be filed in this behalf before the Special Court by Registrar, provisional liquidator, Company Liquidator or any person authorised by the Tribunal.

275. Company Liquidators and their appointments.—(1) For the purposes of winding up of a company by the Tribunal, the Tribunal at the time of the passing of the order of winding up, shall appoint an Official Liquidator or a liquidator from the panel maintained under sub-section (2) as the Company Liquidator.

¹[(2) The provisional liquidator or the Company Liquidator, as the case may, shall be appointed by the Tribunal from amongst the insolvency professionals registered under the Insolvency and Bankruptcy Code, 2016 (31 of 2016);]

(3) Where a provisional liquidator is appointed by the Tribunal, the Tribunal may limit and restrict his powers by the order appointing him or it or by a subsequent order, but otherwise he shall have the same powers as a liquidator.

2*

*

*

*

*

1. Subs. by Act 31 of 2016, s. 255 and the Eleventh Schedule, for sub-section (2) (w.e.f. 15-11-2016).
2. Sub-section (4) omitted by s. 255 and the Eleventh Schedule, *ibid.* (w.e.f. 15-11-2016).

(5) The terms and conditions of appointment of a provisional liquidator or Company Liquidator and the fee payable to him or it shall be specified by the Tribunal on the basis of task required to be performed, experience, qualification of such liquidator and size of the company.

(6) On appointment as provisional liquidator or Company Liquidator, as the case may be, such liquidator shall file a declaration within seven days from the date of appointment in the prescribed form disclosing conflict of interest or lack of independence in respect of his appointment, if any, with the Tribunal and such obligation shall continue throughout the term of his appointment.

(7) While passing a winding up order, the Tribunal may appoint a provisional liquidator, if any, appointed under clause (c) of sub-section (1) of section 273, as the Company Liquidator for the conduct of the proceedings for the winding up of the company.

276. Removal and replacement of liquidator.—(1) The Tribunal may, on a reasonable cause being shown and for reasons to be recorded in writing, remove the provisional liquidator or the Company Liquidator, as the case may be, as liquidator of the company on any of the following grounds, namely:—

(a) misconduct;

(b) fraud or misfeasance;

(c) professional incompetence or failure to exercise due care and diligence in performance of the powers and functions;

(d) inability to act as provisional liquidator or as the case may be, Company Liquidator;

(e) conflict of interest or lack of independence during the term of his appointment that would justify removal.

(2) In the event of death, resignation or removal of the provisional liquidator or as the case may be, Company Liquidator, the Tribunal may transfer the work assigned to him or it to another Company Liquidator for reasons to be recorded in writing.

(3) Where the Tribunal is of the opinion that any liquidator is responsible for causing any loss or damage to the company due to fraud or misfeasance or failure to exercise due care and diligence in the performance of his or its powers and functions, the Tribunal may recover or cause to be recovered such loss or damage from the liquidator and pass such other orders as it may think fit.

(4) The Tribunal shall, before passing any order under this section, provide a reasonable opportunity of being heard to the provisional liquidator or, as the case may be, Company Liquidator.

277. Intimation to Company Liquidator, provisional liquidator and Registrar.—(1) Where the Tribunal makes an order for appointment of provisional liquidator or for the winding up of a company, it shall, within a period not exceeding seven days from the date of passing of the order, cause intimation thereof to be sent to the Company Liquidator or provisional liquidator, as the case may be, and the Registrar.

(2) On receipt of the copy of order of appointment of provisional liquidator or winding up order, the Registrar shall make an endorsement to that effect in his records relating to the company and notify in the Official Gazette that such an order has been made and in the case of a listed company, the Registrar shall intimate about such appointment or order, as the case may be, to the stock exchange or exchanges where the securities of the company are listed.

(3) The winding up order shall be deemed to be a notice of discharge to the officers, employees and workmen of the company, except when the business of the company is continued.

(4) Within three weeks from the date of passing of winding up order, the Company Liquidator shall make an application to the Tribunal for constitution of a winding up committee to assist and monitor the progress of liquidation proceedings by the Company Liquidator in carrying out the function as provided in sub-section (5) and such winding up committee shall comprise of the following persons, namely:—

(i) Official Liquidator attached to the Tribunal;

(ii) nominee of secured creditors; and

(iii) a professional nominated by the Tribunal.

(5) The Company Liquidator shall be the convener of the meetings of the winding up committee which shall assist and monitor the liquidation proceedings in following areas of liquidation functions, namely:—

(i) taking over assets;

(ii) examination of the statement of affairs;

(iii) recovery of property, cash or any other assets of the company including benefits derived therefrom;

(iv) review of audit reports and accounts of the company;

(v) sale of assets;

(vi) finalisation of list of creditors and contributories;

(vii) compromise, abandonment and settlement of claims;

(viii) payment of dividends, if any; and

(ix) any other function, as the Tribunal may direct from time to time.

(6) The Company Liquidator shall place before the Tribunal a report along with minutes of the meetings of the committee on monthly basis duly signed by the members present in the meeting for consideration till the final report for dissolution of the company is submitted before the Tribunal.

(7) The Company Liquidator shall prepare the draft final report for consideration and approval of the winding up committee.

(8) The final report so approved by the winding up committee shall be submitted by the Company Liquidator before the Tribunal for passing of a dissolution order in respect of the company.

278. Effect of winding up order.—The order for the winding up of a company shall operate in favour of all the creditors and all contributories of the company as if it had been made out on the joint petition of creditors and contributories.

279. Stay of suits, etc., on winding up order.—(1) When a winding up order has been passed or a provisional liquidator has been appointed, no suit or other legal proceeding shall be commenced, or if pending at the date of the winding up order, shall be proceeded with, by or against the company, except with the leave of the Tribunal and subject to such terms as the Tribunal may impose:

Provided that any application to the Tribunal seeking leave under this section shall be disposed of by the Tribunal within sixty days.

(2) Nothing in sub-section (1) shall apply to any proceeding pending in appeal before the Supreme Court or a High Court.

1[280. Jurisdiction of Tribunal.]—The Tribunal shall, notwithstanding anything contained in any other law for the time being in force, have jurisdiction to entertain, or dispose of,—

(a) any suit or proceeding by or against the company;

(b) any claim made by or against the company, including claims by or against any of its branches in India;

(c) any application made under section 233;

(d) any question of priorities or any other question whatsoever, whether of law or facts, including those relating to assets, business, actions, rights, entitlements, privileges, benefits, duties, responsibilities, obligations or in any matter arising out of, or in relation to winding up of the company, whether such suit or proceeding has been instituted, or is instituted, or such claim or question has arisen or arises or such application has been made or is made or such scheme has been submitted, or is submitted, before or after the order for the winding up of the company is made.]

1. Subs. by Act 31 of 2016, s. 255 and the Eleventh Schedule, for section 280 (w.e.f. 15-11-2016).

281. Submission of report by Company Liquidator.—(1) Where the Tribunal has made a winding up order or appointed a Company Liquidator, such liquidator shall, within sixty days from the order, submit to the Tribunal, a report containing the following particulars, namely:—

(a) the nature and details of the assets of the company including their location and value, stating separately the cash balance in hand and in the bank, if any, and the negotiable securities, if any, held by the company:

Provided that the valuation of the assets shall be obtained from registered valuers for this purpose;

(b) amount of capital issued, subscribed and paid-up;

(c) the existing and contingent liabilities of the company including names, addresses and occupations of its creditors, stating separately the amount of secured and unsecured debts, and in the case of secured debts, particulars of the securities given, whether by the company or an officer thereof, their value and the dates on which they were given;

(d) the debts due to the company and the names, addresses and occupations of the persons from whom they are due and the amount likely to be realised on account thereof;

(e) guarantees, if any, extended by the company;

(f) list of contributories and dues, if any, payable by them and details of any unpaid call;

(g) details of trade marks and intellectual properties, if any, owned by the company;

(h) details of subsisting contracts, joint ventures and collaborations, if any;

(i) details of holding and subsidiary companies, if any;

(j) details of legal cases filed by or against the company; and

(k) any other information which the Tribunal may direct or the Company Liquidator may consider necessary to include.

(2) The Company Liquidator shall include in his report the manner in which the company was promoted or formed and whether in his opinion any fraud has been committed by any person in its promotion or formation or by any officer of the company in relation to the company since the formation thereof and any other matters which, in his opinion, it is desirable to bring to the notice of the Tribunal.

(3) The Company Liquidator shall also make a report on the viability of the business of the company or the steps which, in his opinion, are necessary for maximising the value of the assets of the company.

(4) The Company Liquidator may also, if he thinks fit, make any further report or reports.

(5) Any person describing himself in writing to be a creditor or a contributory of the company shall be entitled by himself or by his agent at all reasonable times to inspect the report submitted in accordance with this section and take copies thereof or extracts therefrom on payment of the prescribed fees.

282. Directions of Tribunal on report of Company Liquidator.—(1) The Tribunal shall, on consideration of the report of the Company Liquidator, fix a time limit within which the entire proceedings shall be completed and the company be dissolved:

Provided that the Tribunal may, if it is of the opinion, at any stage of the proceedings, or on examination of the reports submitted to it by the Company Liquidator and after hearing the Company Liquidator, creditors or contributories or any other interested person, that it will not be advantageous or economical to continue the proceedings, revise the time limit within which the entire proceedings shall be completed and the company be dissolved.

(2) The Tribunal may, on examination of the reports submitted to it by the Company Liquidator and after hearing the Company Liquidator, creditors or contributories or any other interested person, order sale of the company as a going concern or its assets or part thereof:

Provided that the Tribunal may, where it considers fit, appoint a sale committee comprising such creditors, promoters and officers of the company as the Tribunal may decide to assist the Company Liquidator in sale under this sub-section.

(3) Where a report is received from the Company Liquidator or the Central Government or any person that a fraud has been committed in respect of the company, the Tribunal shall, without prejudice to the process of winding up, order for investigation under section 210, and on consideration of the report of such investigation it may pass order and give directions under sections 339 to 342 or direct the Company Liquidator to file a criminal complaint against persons who were involved in the commission of fraud.

(4) The Tribunal may order for taking such steps and measures, as may be necessary, to protect, preserve or enhance the value of the assets of the company.

(5) The Tribunal may pass such other order or give such other directions as it considers fit.

283. Custody of company's properties.—(1) Where a winding up order has been made or where a provisional liquidator has been appointed, the Company Liquidator or the provisional liquidator, as the case may be, shall, on the order of the Tribunal, forthwith take into his or its custody or control all the property, effects and actionable claims to which the company is or appears to be entitled to and take such steps and measures, as may be necessary, to protect and preserve the properties of the company.

(2) Notwithstanding anything contained in sub-section (1), all the property and effects of the company shall be deemed to be in the custody of the Tribunal from the date of the order for the winding up of the company.

(3) On an application by the Company Liquidator or otherwise, the Tribunal may, at any time after the making of a winding up order, require any contributory for the time being on the list of contributories, and any trustee, receiver, banker, agent, officer or other employee of the company, to pay, deliver, surrender or transfer forthwith, or within such time as the Tribunal directs, to the Company Liquidator, any money, property or books and papers in his custody or under his control to which the company is or appears to be entitled.

284. Promoters, directors, etc., to cooperate with Company Liquidator.—(1) The promoters, directors, officers and employees, who are or have been in employment of the company or acting or associated with the company shall extend full cooperation to the Company Liquidator in discharge of his functions and duties.

¹[(2) If any person required to assist or cooperate with the Company Liquidator under sub-section (1) does not assist or cooperate, the Company Liquidator may make an application to the Tribunal for necessary directions.

(3) On receiving an application under sub-section (2), the Tribunal shall, by an order, direct the person required to assist or cooperate with the Company Liquidator to comply with the instructions of the Company Liquidator and to cooperate with him in discharging his functions and duties.]

285. Settlement of list of contributories and application of assets.—(1) As soon as may be after the passing of a winding up order by the Tribunal, the Tribunal shall settle a list of contributories, cause rectification of register of members in all cases where rectification is required in pursuance of this Act and shall cause the assets of the company to be applied for the discharge of its liability:

Provided that where it appears to the Tribunal that it would not be necessary to make calls on or adjust the rights of contributories, the Tribunal may dispense with the settlement of a list of contributories.

(2) In settling the list of contributories, the Tribunal shall distinguish between those who are contributories in their own right and those who are contributories as being representatives of, or liable for the debts of, others.

(3) While settling the list of contributories, the Tribunal shall include every person, who is or has been a member, who shall be liable to contribute to the assets of the company an amount sufficient for payment of the debts and liabilities and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, subject to the following conditions, namely:—

(a) a person who has been a member shall not be liable to contribute if he has ceased to be a member for the preceding one year or more before the commencement of the winding up;

1. Subs. by Act 29 of 2020, s. 46, for sub-section (2) (w.e.f. 21-12-2020).

(b) a person who has been a member shall not be liable to contribute in respect of any debt or liability of the company contracted after he ceased to be a member;

(c) no person who has been a member shall be liable to contribute unless it appears to the Tribunal that the present members are unable to satisfy the contributions required to be made by them in pursuance of this Act;

(d) in the case of a company limited by shares, no contribution shall be required from any person, who is or has been a member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as such member;

(e) in the case of a company limited by guarantee, no contribution shall be required from any person, who is or has been a member exceeding the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up but if the company has a share capital, such member shall be liable to contribute to the extent of any sum unpaid on any shares held by him as if the company were a company limited by shares.

286. Obligations of directors and managers.—In the case of a limited company, any person who is or has been a director or manager, whose liability is unlimited under the provisions of this Act, shall, in addition to his liability, if any, to contribute as an ordinary member, be liable to make a further contribution as if he were at the commencement of winding up, a member of an unlimited company:

Provided that —

(a) a person who has been a director or manager shall not be liable to make such further contribution, if he has ceased to hold office for a year or upwards before the commencement of the winding up;

(b) a person who has been a director or manager shall not be liable to make such further contribution in respect of any debt or liability of the company contracted after he ceased to hold office;

(c) subject to the articles of the company, a director or manager shall not be liable to make such further contribution unless the Tribunal deems it necessary to require the contribution in order to satisfy the debts and liabilities of the company, and the costs, charges and expenses of the winding up.

287. Advisory committee.—(1) The Tribunal may, while passing an order of winding up of a company, direct that there shall be, an advisory committee to advise the Company Liquidator and to report to the Tribunal on such matters as the Tribunal may direct.

(2) The advisory committee appointed by the Tribunal shall consist of not more than twelve members, being creditors and contributories of the company or such other persons in such proportion as the Tribunal may, keeping in view the circumstances of the company under liquidation, direct.

(3) The Company Liquidator shall convene a meeting of creditors and contributories, as ascertained from the books and documents, of the company within thirty days from the date of order of winding up for enabling the Tribunal to determine the persons who may be members of the advisory committee.

(4) The advisory committee shall have the right to inspect the books of account and other documents, assets and properties of the company under liquidation at a reasonable time.

(5) The provisions relating to the convening of the meetings, the procedure to be followed thereat and other matters relating to conduct of business by the advisory committee shall be such as may be prescribed.

(6) The meeting of advisory committee shall be chaired by the Company Liquidator.

288. Submission of periodical reports to Tribunal.—(1) The Company Liquidator shall make periodical reports to the Tribunal and in any case make a report at the end of each quarter with respect to the progress of the winding up of the company in such form and manner as may be prescribed.

(2) The Tribunal may, on an application by the Company Liquidator, review the orders made by it and make such modifications as it thinks fit.

289. [Power of Tribunal on application for stay of winding up.] Omitted by the Insolvency and Bankruptcy Code, 2016 (31 of 2016), s. 255 and the Eleventh Schedule (w.e.f. 15-11-2016).

290. Powers and duties of Company Liquidator.—(1) Subject to directions by the Tribunal, if any, in this regard, the Company Liquidator, in a winding up of a company by the Tribunal, shall have the power—

- (a) to carry on the business of the company so far as may be necessary for the beneficial winding up of the company;
- (b) to do all acts and to execute, in the name and on behalf of the company, all deeds, receipts and other documents, and for that purpose, to use, when necessary, the company's seal;
- (c) to sell the immovable and movable property and actionable claims of the company by public auction or private contract, with power to transfer such property to any person or body corporate, or to sell the same in parcels;
- (d) to sell the whole of the undertaking of the company as a going concern;
- (e) to raise any money required on the security of the assets of the company;
- (f) to institute or defend any suit, prosecution or other legal proceeding, civil or criminal, in the name and on behalf of the company;
- (g) to invite and settle claim of creditors, employees or any other claimant and distribute sale proceeds in accordance with priorities established under this Act;
- (h) to inspect the records and returns of the company on the files of the Registrar or any other authority;
- (i) to prove rank and claim in the insolvency of any contributory for any balance against his estate, and to receive dividends in the insolvency, in respect of that balance, as a separate debt due from the insolvent, and rate ably with the other separate creditors;
- (j) to draw, accept, make and endorse any negotiable instruments including cheque, bill of exchange, hundi or promissory note in the name and on behalf of the company, with the same effect with respect to the liability of the company as if such instruments had been drawn, accepted, made or endorsed by or on behalf of the company in the course of its business;
- (k) to take out, in his official name, letters of administration to any deceased contributory, and to do in his official name any other act necessary for obtaining payment of any money due from a contributory or his estate which cannot be conveniently done in the name of the company, and in all such cases, the money due shall, for the purpose of enabling the Company Liquidator to take out the letters of administration or recover the money, be deemed to be due to the Company Liquidator himself;
- (l) to obtain any professional assistance from any person or appoint any professional, in discharge of his duties, obligations and responsibilities and for protection of the assets of the company, appoint an agent to do any business which the Company Liquidator is unable to do himself;
- (m) to take all such actions, steps, or to sign, execute and verify any paper, deed, document, application, petition, affidavit, bond or instrument as may be necessary,—
 - (i) for winding up of the company;
 - (ii) for distribution of assets;
 - (iii) in discharge of his duties and obligations and functions as Company Liquidator; and
- (n) to apply to the Tribunal for such orders or directions as may be necessary for the winding up of the company.

(2) The exercise of powers by the Company Liquidator under sub-section (1) shall be subject to the overall control of the Tribunal.

(3) Notwithstanding the provisions of sub-section (1), the Company Liquidator shall perform such other duties as the Tribunal may specify in this behalf.

291. Provision for professional assistance to Company Liquidator.—(1) The Company Liquidator may, with the sanction of the Tribunal, appoint one or more chartered accountants or company secretaries

or cost accountants or legal practitioners or such other professionals on such terms and conditions, as may be necessary, to assist him in the performance of his duties and functions under this Act.

(2) Any person appointed under this section shall disclose forthwith to the Tribunal in the prescribed form any conflict of interest or lack of independence in respect of his appointment.

292. Exercise and control of Company Liquidator's powers.—(1) Subject to the provisions of this Act, the Company Liquidator shall, in the administration of the assets of the company and the distribution thereof among its creditors, have regard to any directions which may be given by the resolution of the creditors or contributories at any general meeting or by the advisory committee.

(2) Any directions given by the creditors or contributories at any general meeting shall, in case of conflict, be deemed to override any directions given by the advisory committee.

(3) The Company Liquidator—

(a) may summon meetings of the creditors or contributories, whenever he thinks fit, for the purpose of ascertaining their wishes; and

(b) shall summon such meetings at such times, as the creditors or contributories, as the case may be, may, by resolution, direct, or whenever requested in writing to do so by not less than one-tenth in value of the creditors or contributories, as the case may be.

(4) Any person aggrieved by any act or decision of the Company Liquidator may apply to the Tribunal, and the Tribunal may confirm, reverse or modify the act or decision complained of and make such further order as it thinks just and proper in the circumstances.

293. Books to be kept by Company Liquidator.—(1) The Company Liquidator shall keep proper books in such manner, as may be prescribed, in which he shall cause entries or minutes to be made of proceedings at meetings and of such other matters as may be prescribed.

(2) Any creditor or contributory may, subject to the control of the Tribunal, inspect any such books, personally or through his agent.

294. Audit of Company Liquidator's accounts.—(1) The Company Liquidator shall maintain proper and regular books of account including accounts of receipts and payments made by him in such form and manner as may be prescribed.

(2) The Company Liquidator shall, at such times as may be prescribed but not less than twice in each year during his tenure of office, present to the Tribunal an account of the receipts and payments as such liquidator in the prescribed form in duplicate, which shall be verified by a declaration in such form and manner as may be prescribed.

(3) The Tribunal shall cause the accounts to be audited in such manner as it thinks fit, and for the purpose of the audit, the Company Liquidator shall furnish to the Tribunal with such vouchers and information as the Tribunal may require, and the Tribunal may, at any time, require the production of, and inspect, any books of account kept by the Company Liquidator.

(4) When the accounts of the company have been audited, one copy thereof shall be filed by the Company Liquidator with the Tribunal, and the other copy shall be delivered to the Registrar which shall be open to inspection by any creditor, contributory or person interested.

(5) Where an account referred to in sub-section (4) relates to a Government company, the Company Liquidator shall forward a copy thereof—

(a) to the Central Government, if that Government is a member of the Government company; or

(b) to any State Government, if that Government is a member of the Government company; or

(c) to the Central Government and any State Government, if both the Governments are members of the Government company.

(6) The Company Liquidator shall cause the accounts when audited, or a summary thereof, to be printed, and shall send a printed copy of the accounts or summary thereof by post to every creditor and every contributory:

Provided that the Tribunal may dispense with the compliance of the provisions of this sub-section in any case it deems fit.

295. Payment of debts by contributory and extent of set-off.—(1) The Tribunal may, at any time after passing of a winding up order, pass an order requiring any contributory for the time being on the list of contributories to pay, in the manner directed by the order, any money due to the company, from him or from the estate of the person whom he represents, exclusive of any money payable by him or the estate by virtue of any call in pursuance of this Act.

(2) The Tribunal, in making an order, under sub-section (1), may,—

(a) in the case of an unlimited company, allow to the contributory, by way of set-off, any money due to him or to the estate which he represents, from the company, on any independent dealing or contract with the company, but not any money due to him as a member of the company in respect of any dividend or profit; and

(b) in the case of a limited company, allow to any director or manager whose liability is unlimited, or to his estate, such set-off.

(3) In the case of any company, whether limited or unlimited, when all the creditors have been paid in full, any money due on any account whatever to a contributory from the company may be allowed to him by way of set-off against any subsequent call.

296. Power of Tribunal to make calls.—The Tribunal may, at any time after the passing of a winding up order, and either before or after it has ascertained the sufficiency of the assets of the company,—

(a) make calls on all or any of the contributories for the time being on the list of the contributories, to the extent of their liability, for payment of any money which the Tribunal considers necessary to satisfy the debts and liabilities of the company, and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves; and

(b) make an order for payment of any calls so made.

297. Adjustment of rights of contributories.—The Tribunal shall adjust the rights of the contributories among themselves and distribute any surplus among the persons entitled thereto.

298. Power to order costs.—The Tribunal may, in the event of the assets of a company being insufficient to satisfy its liabilities, make an order for the payment out of the assets, of the costs, charges and expenses incurred in the winding up, in such order of priority *inter se* as the Tribunal thinks just and proper.

299. Power to summon persons suspected of having property of company, etc.—(1) The Tribunal may, at any time after the appointment of a provisional liquidator or the passing of a winding up order, summon before it any officer of the company or person known or suspected to have in his possession any property or books or papers, of the company, or known or suspected to be indebted to the company, or any person whom the Tribunal thinks to be capable of giving information concerning the promotion, formation, trade, dealings, property, books or papers, or affairs of the company.

(2) The Tribunal may examine any officer or person so summoned on oath concerning the matters aforesaid, either by word of mouth or on written interrogatories or on affidavit and may, in the first case, reduce his answers to writing and require him to sign them.

(3) The Tribunal may require any officer or person so summoned to produce any books and papers relating to the company in his custody or power, but, where he claims any lien on books or papers produced by him, the production shall be without prejudice to such lien, and the Tribunal shall have power to determine all questions relating to that lien.

(4) The Tribunal may direct the liquidator to file before it a report in respect of debt or property of the company in possession of other persons.

(5) If the Tribunal finds that—

(a) a person is indebted to the company, the Tribunal may order him to pay to the provisional liquidator or, as the case may be, the liquidator at such time and in such manner as the Tribunal may consider just, the amount in which he is indebted, or any part thereof, either in full discharge of the whole amount or not, as the Tribunal thinks fit, with or without costs of the examination;

(b) a person is in possession of any property belonging to the company, the Tribunal may order him to deliver to the provisional liquidator or, as the case may be, the liquidator, that property or any part thereof, at such time, in such manner and on such terms as the Tribunal may consider just.

(6) If any officer or person so summoned fails to appear before the Tribunal at the time appointed without a reasonable cause, the Tribunal may impose an appropriate cost.

(7) Every order made under sub-section (5) shall be executed in the same manner as decrees for the payment of money or for the delivery of property under the Code of Civil Procedure, 1908 (5 of 1908).

(8) Any person making any payment or delivery in pursuance of an order made under sub-section (5) shall by such payment or delivery be, unless otherwise directed by such order, discharged from all liability whatsoever in respect of such debt or property.

300. Power to order examination of promoters, directors, etc.—(1) Where an order has been made for the winding up of a company by the Tribunal, and the Company Liquidator has made a report to the Tribunal under this Act, stating that in his opinion a fraud has been committed by any person in the promotion, formation, business or conduct of affairs of the company since its formation, the Tribunal may, after considering the report, direct that such person or officer shall attend before the Tribunal on a day appointed by it for that purpose, and be examined as to the promotion or formation or the conduct of the business of the company or as to his conduct and dealings as an officer thereof.

(2) The Company Liquidator shall take part in the examination, and for that purpose he or it may, if specially authorised by the Tribunal in that behalf, employ such legal assistance as may be sanctioned by the Tribunal.

(3) The person shall be examined on oath and shall answer all such questions as the Tribunal may put, or allow to be put, to him.

(4) A person ordered to be examined under this section—

(a) shall, before his examination, be furnished at his own cost with a copy of the report of the Company Liquidator; and

(b) may at his own cost employ chartered accountants or company secretaries or cost accountants or legal practitioners entitled to appear before the Tribunal under section 432, who shall be at liberty to put to him such questions as the Tribunal may consider just for the purpose of enabling him to explain or qualify any answers given by him.

(5) If any such person applies to the Tribunal to be exculpated from any charges made or suggested against him, it shall be the duty of the Company Liquidator to appear on the hearing of such application and call the attention of the Tribunal to any matters which appear to the Company Liquidator to be relevant.

(6) If the Tribunal, after considering any evidence given or hearing witnesses called by the Company Liquidator, allows the application made under sub-section (5), the Tribunal may order payment to the applicant of such costs as it may think fit.

(7) Notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined, a copy be supplied to him and may thereafter be used in evidence against him, and shall be open to inspection by any creditor or contributory at all reasonable times.

(8) The Tribunal may, if it thinks fit, adjourn the examination from time to time.

(9) An examination under this section may, if the Tribunal so directs, be held before any person or authority authorised by the Tribunal.

(10) The powers of the Tribunal under this section as to the conduct of the examination, but not as to costs, may be exercised by the person or authority before whom the examination is held in pursuance of sub-section (9).

301. Arrest of person trying to leave India or abscond.—At any time either before or after passing a winding up order, if the Tribunal is satisfied that a contributory or a person having property, accounts or papers of the company in his possession is about to leave India or otherwise to abscond, or is about to remove or conceal any of his property, for the purpose of evading payment of calls or of avoiding examination respecting the affairs of the company, the Tribunal may cause—

(a) the contributory to be detained until such time as the Tribunal may order; and

(b) his books and papers and movable property to be seized and safely kept until such time as the Tribunal may order.

302. Dissolution of company by Tribunal.—(1) When the affairs of a company have been completely wound up, the Company Liquidator shall make an application to the Tribunal for dissolution of such company.

(2) The Tribunal shall on an application filed by the Company Liquidator under sub-section (1) or when the Tribunal is of the opinion that it is just and reasonable in the circumstances of the case that an order for the dissolution of the company should be made, make an order that the company be dissolved from the date of the order, and the company shall be dissolved accordingly.

¹[(3) The Tribunal shall, within a period of thirty days from the date of the order,—

(a) forward a copy of the order to the Registrar who shall record in the register relating to the company a minute of the dissolution of the company; and

(b) direct the Company Liquidator to forward a copy of the order to the Registrar who shall record in the register relating to the company a minute of the dissolution of the company.]

2*

*

*

*

*

303. Appeals from orders made before commencement of Act.—Nothing in this Chapter shall affect the operation or enforcement of any order made by any Court in any proceedings for the winding up of a company immediately before the commencement of this Act and an appeal against such order shall be filed before such authority competent to hear such appeals before such commencement.

[Part II.—Voluntary winding up] Omitted by the Insolvency and Bankruptcy Code, 2016 (31 of 2016), s. 255 and the Eleventh Schedule (w.e.f. 15-11-2016).

304.[Circumstances in which company may be wound up voluntarily.] Omitted by s. 255 and the Eleventh Schedule, *ibid.* (w.e.f. 15-11-2016).

305.[Declaration of solvency in case of proposal to wind up voluntarily.] Omitted by s. 255 and the Eleventh Schedule, *ibid.* (w.e.f. 15-11-2016).

306.[Meeting of creditors.] Omitted by s. 255 and the Eleventh Schedule, *ibid.* (w.e.f. 15-11-2016).

307.[Publication of resolution to wind up voluntarily.] Omitted by s. 255 and the Eleventh Schedule, *ibid.* (w.e.f. 15-11-2016).

308.[Commencement of voluntary winding up.] Omitted by s. 255 and the Eleventh Schedule, *ibid.* (w.e.f. 15-11-2016).

309.[Effect of voluntary winding up.] Omitted by s. 255 and the Eleventh Schedule, *ibid.* (w.e.f. 15-11-2016).

1. Subs. by Act 29 of 2020, s. 47, for sub-section (3) (w.e.f. 21-12-2020).

2. Sub-section (4) omitted by s. 47, *ibid.* (w.e.f. 21-12-2020).

310.[*Appointment of Company Liquidator.*] Omitted by s. 255 and the Eleventh Schedule, *ibid.* (w.e.f. 15-11-2016).

311.[*Power to remove and fill vacancy of Company Liquidator.*] Omitted by s. 255 and the Eleventh Schedule, *ibid.*(w.e.f. 15-11-2016).

312.[*Notice of appointment of Company Liquidator to be given to Registrar.*]Omitted by s. 255 and the Eleventh Schedule, *ibid.*(w.e.f. 15-11-2016).

313.[*Cesser of Board's powers on appointment of Company Liquidator.*]Omitted by s. 255 and the Eleventh Schedule, *ibid.*(w.e.f. 15-11-2016).

314.[*Powers and duties of Company Liquidator in voluntary winding up.*]Omitted by s. 255 and the Eleventh Schedule, *ibid.*(w.e.f. 15-11-2016).

315.[*Appointment of committees.*]Omitted by s. 255 and the Eleventh Schedule, *ibid.*(w.e.f. 15-11-2016).

316.[*Company Liquidator to submit report on progress of winding up.*] Omitted by the Insolvency and Bankruptcy Code, 2016 (31 of 2016), s. 255 and the Eleventh Schedule (w.e.f. 15-11-2016).

317.[*Report of Company Liquidator to Tribunal for examination of persons.*] Omitted by s. 255 and the Eleventh Schedule, *ibid.*(w.e.f. 15-11-2016).

318.[*Final meeting and dissolution of company.*] Omitted by s. 255 and the Eleventh Schedule, *ibid.*(w.e.f. 15-11-2016).

319.[*Power of Company Liquidator to accept shares, etc., as consideration for sale of property of company.*] Omitted by s. 255 and the Eleventh Schedule, *ibid.*(w.e.f. 15-11-2016).

320. [*Distribution of property of company.*] Omitted by s. 255 and the Eleventh Schedule, *ibid.*(w.e.f. 15-11-2016).

321. [*Arrangement when binding on company and creditors.*] Omitted by the Insolvency and Bankruptcy Code, 2016 (31 of 2016), s. 255 and the Eleventh Schedule (w.e.f. 15-11-2016).

322. [*Power to apply to Tribunal to have questions determined, etc.*] Omitted by s. 255 and the Eleventh Schedule, *ibid.*(w.e.f. 15-11-2016).

323.[*Costs of voluntary winding up.*]Omitted by s. 255 and the Eleventh Schedule, *ibid.* (w.e.f. 15-11-2016).

PART III.—*Provisions applicable to every mode of winding up*

324. Debts of all descriptions to be admitted to proof.— In every winding up (subject, in the case of insolvent companies, to the application in accordance with the provisions of this Act or of the law of insolvency), all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, ascertained or sounding only in damages, shall be admissible to proof against the company, a just estimate being made, so far as possible, of the value of such debts or claims as may be subject to any contingency, or may sound only in damages, or for some other reason may not bear a certain value.

325.[*Application of insolvency rules in winding up of insolvent companies.*] Omitted by the Insolvency and Bankruptcy Code, 2016 (31 of 2016) s. 255 and the Eleventh Schedule (w.e.f. 15-11-2016).

¹326. Overriding preferential payments.—(1) In the winding up of a company under this Act, the following debts shall be paid in priority to all other debts:—

(a) workmen's dues; and

(b) where a secured creditor has realised a secured asset, so much of the debts due to such secured creditor as could not be realised by him or the amount of the workmen's portion in his security (if payable under the law), whichever is less, *pari passu* with the workmen's dues:

1. Subs. by Act 31 of 2016, s. 255 and the Eleventh Schedule, for section 326 (w.e.f. 15-11-2016).

Provided that in case of the winding up of a company, the sums referred to in sub-clauses (i) and (ii) of clause (b) of the *Explanation*, which are payable for a period of two years preceding the winding up order or such other period as may be prescribed, shall be paid in priority to all other debts (including debts due to secured creditors), within a period of thirty days of sale of assets and shall be subject to such charge over the security of secured creditors as may be prescribed.

(2) The debts payable under the proviso to sub-section (1) shall be paid in full before any payment is made to secured creditors and thereafter debts payable under that sub-section shall be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions.

Explanation.—For the purposes of this section, and section 327—

(a) “workmen”, in relation to a company, means the employees of the company, being workmen within the meaning of clause (s) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947);

(b) “workmen's dues”, in relation to a company, means the aggregate of the following sums due from the company to its workmen, namely:—

(i) all wages or salary including wages payable for time or piece work and salary earned wholly or in part by way of commission of any workman in respect of services rendered to the company and any compensation payable to any workman under any of the provisions of the Industrial Disputes Act, 1947 (14 of 1947);

(ii) all accrued holiday remuneration becoming payable to any workman or, in the case of his death, to any other person in his right on the termination of his employment before or by the effect of the winding up order or resolution;

(iii) unless the company is being wound up voluntarily merely for the purposes of reconstruction or amalgamation with another company or unless the company has, at the commencement of the winding up, under such a contract with insurers as is mentioned in section 14 of the Workmen's Compensation Act, 1923 (19 of 1923), rights capable of being transferred to and vested in the workmen, all amount due in respect of any compensation or liability for compensation under the said Act in respect of the death or disablement of any workman of the company;

(iv) all sums due to any workman from the provident fund, the pension fund, the gratuity fund or any other fund for the welfare of the workmen, maintained by the company;

(c) “workmen's portion”, in relation to the security of any secured creditor of a company, means the amount which bears to the value of the security the same proportion as the amount of the workmen's dues bears to the aggregate of the amount of workmen's dues and the amount of the debts due to the secured creditors.

Illustration

The value of the security of a secured creditor of a company is Rs. 1,00,000. The total amount of the workmen's dues is Rs. 1,00,000. The amount of the debts due from the company to its secured creditors is Rs. 3,00,000. The aggregate of the amount of workmen's dues and the amount of debts due to secured creditors is Rs. 4,00,000. The workmen's portion of the security is, therefore, one-fourth of the value of the security, that is Rs. 25,000.]

327. Preferential payments.—(1) In a winding up, subject to the provisions of section 326, there shall be paid in priority to all other debts,—

(a) all revenues, taxes, cesses and rates due from the company to the Central Government or a State Government or to a local authority at the relevant date, and having become due and payable within the twelve months immediately before that date;

(b) all wages or salary including wages payable for time or piece work and salary earned wholly or in part by way of commission of any employee in respect of services rendered to the company and due for a period not exceeding four months within the twelve months immediately before the relevant date, subject to the condition that the amount payable under this clause to any workman shall not exceed such amount as may be notified;

(c) all accrued holiday remuneration becoming payable to any employee, or in the case of his death, to any other person claiming under him, on the termination of his employment before, or by the winding up order, or, as the case may be, the dissolution of the company;

(d) unless the company is being wound up voluntarily merely for the purposes of reconstruction or amalgamation with another company, all amount due in respect of contributions payable during the period of twelve months immediately before the relevant date by the company as the employer of persons under the Employees' State Insurance Act, 1948 (34 of 1948) or any other law for the time being in force;

(e) unless the company has, at the commencement of winding up, under such a contract with any insurer as is mentioned in section 14 of the Workmen's Compensation Act, 1923 (8 of 1923), rights capable of being transferred to and vested in the workmen, all amount due in respect of any compensation or liability for compensation under the said Act in respect of the death or disablement of any employee of the company:

Provided that where any compensation under the said Act is a weekly payment, the amount payable under this clause shall be taken to be the amount of the lump sum for which such weekly payment could, if redeemable, be redeemed, if the employer has made an application under that Act;

(f) all sums due to any employee from the provident fund, the pension fund, the gratuity fund or any other fund for the welfare of the employees, maintained by the company; and

(g) the expenses of any investigation held in pursuance of sections 213 and 216, in so far as they are payable by the company.

(2) Where any payment has been made to any employee of a company on account of wages or salary or accrued holiday remuneration, himself or, in the case of his death, to any other person claiming through him, out of money advanced by some person for that purpose, the person by whom the money was advanced shall, in a winding up, have a right of priority in respect of the money so advanced and paid-up to the amount by which the sum in respect of which the employee or other person in his right would have been entitled to priority in the winding up has been reduced by reason of the payment having been made.

(3) The debts enumerated in this section shall—

(a) rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions; and

(b) so far as the assets of the company available for payment to general creditors are insufficient to meet them, have priority over the claims of holders of debentures under any floating charge created by the company, and be paid accordingly out of any property comprised in or subject to that charge.

(4) Subject to the retention of such sums as may be necessary for the costs and expenses of the winding up, the debts under this section shall be discharged forthwith so far as the assets are sufficient to meet them, and in the case of the debts to which priority is given under clause (d) of sub-section (1), formal proof thereof shall not be required except in so far as may be otherwise prescribed.

(5) In the event of a landlord or other person distaining or having distained on any goods or effects of the company within three months immediately before the date of a winding up order, the debts to which priority is given under this section shall be a first charge on the goods or effects so distrained on or the proceeds of the sale thereof:

Provided that, in respect of any money paid under any such charge, the landlord or other person shall have the same rights of priority as the person to whom the payment is made.

(6) Any remuneration in respect of a period of holiday or of absence from work on medical grounds through sickness or other good cause shall be deemed to be wages in respect of services rendered to the company during that period.

¹[(7) Sections 326 and 327 shall not be applicable in the event of liquidation under the Insolvency and Bankruptcy Code, 2016 (31 of 2016).]

Explanation.—For the purposes of this section,—

(a) the expression “accrued holiday remuneration” includes, in relation to any person, all sums which, by virtue either of his contract of employment or of any enactment including any order made or direction given thereunder, are payable on account of the remuneration which would, in the ordinary course, have become payable to him in respect of a period of holiday, had his employment with the company continued until he became entitled to be allowed the holiday;

(b) the expression “employee” does not include a workman; and

²[(c) the expression “relevant date” means in the case of a company being wound up by the Tribunal, the date of appointment or first appointment of a provisional liquidator, or if no such appointment was made, the date of the winding up order, unless, in either case, the company had commenced to be wound up voluntarily before that date under the Insolvency and Bankruptcy Code, 2016 (31 of 2016).]

328. Fraudulent preference.—(1) Where a company has given preference to a person who is one of the creditors of the company or a surety or guarantor for any of the debts or other liabilities of the company, and the company does anything or suffers anything done which has the effect of putting that person into a position which, in the event of the company going into liquidation, will be better than the position he would have been in if that thing had not been done prior to six months of making winding up application, the Tribunal, if satisfied that, such transaction is a fraudulent preference may order as it may think fit for restoring the position to what it would have been if the company had not given that preference.

(2) If the Tribunal is satisfied that there is a preference transfer of property, movable or immovable, or any delivery of goods, payment, execution made, taken or done by or against a company within six months before making winding up application, the Tribunal may order as it may think fit and may declare such transaction invalid and restore the position.

³[**329. Transfers not in good faith to be void.**—Any transfer of property, movable or immovable, or any delivery of goods, made by a company, not being a transfer or delivery made in the ordinary course of its business or in favour of a purchaser or encumbrancer in good faith and for valuable consideration, if made within a period of one year before the presentation of a petition for winding up by the Tribunal under this Act shall be void against the Company Liquidator.]

330. Certain transfers to be void.—Any transfer or assignment by a company of all its properties or assets to trustees for the benefit of all its creditors shall be void.

331. Liabilities and rights of certain persons fraudulently preferred.—(1) Where a company is being wound up and anything made, taken or done after the commencement of this Act is invalid under section 328 as a fraudulent preference of a person interested in property mortgaged or charged to secure the company’s debt, then, without prejudice to any rights or liabilities arising, apart from this provision, the person preferred shall be subject to the same liabilities, and shall have the same rights, as if he had undertaken to be personally liable as a surety for the debt, to the extent of the mortgage or charge on the property or the value of his interest, whichever is less.

(2) The value of the interest of the person preferred under sub-section (1) shall be determined as at the date of the transaction constituting the fraudulent preference, as if the interest were free of all encumbrances other than those to which the mortgage or charge for the debt of the company was then subject.

(3) On an application made to the Tribunal with respect to any payment on the ground that the payment was a fraudulent preference of a surety or guarantor, the Tribunal shall have jurisdiction to determine any questions with respect to the payment arising between the person to whom the payment was made and the surety or guarantor and to grant relief in respect thereof, notwithstanding that it is not necessary so to do

1. Ins. by Act 31 of 2016, s. 255 and the Eleventh Schedule (w.e.f. 15-11-2016).

2. Subs. by s. 255 and the Eleventh Schedule, *ibid.*, for clause (c) (w.e.f. 15-11-2016).

3. Subs. by Act 31 of 2016, s. 255 and the Eleventh Schedule, for section 329 (w.e.f. 15-11-2016).

for the purposes of the winding up, and for that purpose, may give leave to bring in the surety or guarantor as a third party as in the case of a suit for the recovery of the sum paid.

(4) The provisions of sub-section (3) shall apply *mutatis mutandis* in relation to transactions other than payment of money.

332. Effect of floating charge.—Where a company is being wound up, a floating charge on the undertaking or property of the company created within the twelve months immediately preceding the commencement of the winding up, shall, unless it is proved that the company immediately after the creation of the charge was solvent, be invalid, except for the amount of any cash paid to the company at the time of, or subsequent to the creation of, and in consideration for, the charge, together with interest on that amount at the rate of five per cent. per annum or such other rate as may be notified by the Central Government in this behalf.

333. Disclaimer of onerous property.—(1) Where any part of the property of a company which is being wound up consists of—

- (a) land of any tenure, burdened with onerous covenants;
- (b) shares or stocks in companies;
- (c) any other property which is not saleable or is not readily saleable by reason of the possessor thereof being bound either to the performance of any onerous act or to the payment of any sum of money; or
- (d) unprofitable contracts,

the Company Liquidator may, notwithstanding that he has endeavoured to sell or has taken possession of the property or exercised any act of ownership in relation thereto or done anything in pursuance of the contract, with the leave of the Tribunal and subject to the provisions of this section, by writing signed by him, at any time within twelve months after the commencement of the winding up or such extended period as may be allowed by the Tribunal, disclaim the property:

Provided that where the Company Liquidator had not become aware of the existence of any such property within one month from the commencement of the winding up, the power of disclaiming the property may be exercised at any time within twelve months after he has become aware thereof or such extended period as may be allowed by the Tribunal.

(2) The disclaimer shall operate to determine, as from the date of disclaimer, the rights, interest and liabilities of the company in or in respect of the property disclaimed, but shall not, except so far as is necessary for the purpose of releasing the company and the property of the company from liability, affect the rights, interest or liabilities of any other person.

(3) The Tribunal, before or on granting leave to disclaim, may require such notices to be given to persons interested, and impose such terms as a condition of granting leave, and make such other order in the matter as the Tribunal considers just and proper.

(4) The Company Liquidator shall not be entitled to disclaim any property in any case where an application in writing has been made to him by any person interested in the property requiring him to decide whether he will or will not disclaim and the Company Liquidator has not, within a period of twenty-eight days after the receipt of the application or such extended period as may be allowed by the Tribunal, give notice to the applicant that he intends to apply to the Tribunal for leave to disclaim, and in case the property is under a contract, if the Company Liquidator after such an application as aforesaid does not within the said period or extended period disclaim the contract, he shall be deemed to have adopted it.

(5) The Tribunal may, on the application of any person who is, as against the Company Liquidator, entitled to the benefit or subject to the burden of a contract made with the company, make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise as the Tribunal considers just and proper, and any damages payable under the order to any such person maybe proved by him as a debt in the winding up.

(6) The Tribunal may, on an application by any person who either claims any interest in any disclaimed property or is under any liability not discharged under this Act in respect of any disclaimed property, and

after hearing any such persons as it thinks fit, make an order for the vesting of the property in, or the delivery of the property to, any person entitled thereto or to whom it may seem just that the property should be delivered by way of compensation for such liability as aforesaid, or a trustee for him, and on such terms as the Tribunal considers just and proper, and on any such vesting order being made, the property comprised therein shall vest accordingly in the person named therein in that behalf without any conveyance or assignment for the purpose:

Provided that where the property disclaimed is of a leasehold nature, the Tribunal shall not make a vesting order in favour of any person claiming under the company, whether as under-lessee or as mortgagee or holder of a charge by way of demise, except upon the terms of making that person—

(a) subject to the same liabilities and obligations as those to which the company was subject under the lease in respect of the property at the commencement of the winding up; or

(b) if the Tribunal thinks fit, subject only to the same liabilities and obligations as if the lease had been assigned to that person at that date,

and in either event as if the lease had comprised only the property comprised in the vesting order, and any mortgagee or under-lessee declining to accept a vesting order upon such terms shall be excluded from all interest in, and security upon the property, and, if there is no person claiming under the company who is willing to accept an order upon such terms, the Tribunal shall have power to vest the estate and interest of the company in the property in any person liable, either personally or in a representative character, and either alone or jointly with the company, to perform the covenants of the lessee in the lease, free and discharged from all estates, encumbrances and interests created therein by the company.

(7) Any person affected by the operation of a disclaimer under this section shall be deemed to be a creditor of the company to the amount of the compensation or damages payable in respect of such effect, and may accordingly prove the amount as a debt in the winding up.

¹[334. Transfers, etc., after commencement of winding up to be void.]—In the case of a winding up by the Tribunal, any disposition of the property including actionable claims, of the company and any transfer of shares in the company or alteration in the status of its members, made after the commencement of the winding up shall, unless the Tribunal otherwise orders, be void.]

335. Certain attachments, executions, etc., in winding up by Tribunal to be void.—(1) Where any company is being wound up by the Tribunal,—

(a) any attachment, distress or execution put in force, without leave of the Tribunal against the estate or effects of the company, after the commencement of the winding up; or

(b) any sale held, without leave of the Tribunal of any of the properties or effects of the company, after such commencement,

shall be void.

(2) Nothing in this section shall apply to any proceedings for the recovery of any tax or impost or any dues payable to the Government.

336. Offences by officers of companies in liquidation.—(1) If any person, who is or has been an officer of a company which, at the time of the commission of the alleged offence, is being wound up, ²[by the Tribunal under this Act or which is subsequently ordered to be wound up by the Tribunal under this Act],—

(a) does not, to the best of his knowledge and belief, fully and truly disclose to the Company Liquidator all the property, movable and immovable, of the company, and how and to whom and for what consideration and when the company disposed of any part thereof, except such part as has been disposed of in the ordinary course of the business of the company;

(b) does not deliver up to the Company Liquidator, or as he directs, all such part of the movable and immovable property of the company as is in his custody or under his control and which he is required by law to deliver up;

1. Subs. by Act 31 of 2016, s. 255 and the Eleventh Schedule, for section 334 (w.e.f. 15-11-2016).

2. Subs. by s. 255 and the Eleventh Schedule, *ibid.*, for “whether by the Tribunal or voluntarily, or which is subsequently ordered to be wound up by the Tribunal or which subsequently passes a resolution for voluntary winding up” (w.e.f. 15-11-2016).

(c) does not deliver up to the Company Liquidator, or as he directs, all such books and papers of the company as are in his custody or under his control and which he is required by law to deliver up;

(d) within the twelve months immediately before the commencement of the winding up or at any time thereafter,—

(i) conceals any part of the property of the company to the value of one thousand rupees or more, or conceals any debt due to or from the company;

(ii) fraudulently removes any part of the property of the company to the value of one thousand rupees or more;

(iii) conceals, destroys, mutilates or falsifies, or is privy to the concealment, destruction, mutilation or falsification of, any book or paper affecting or relating to, the property or affairs of the company;

(iv) makes, or is privy to the making of, any false entry in any book or paper affecting or relating to, the property or affairs of the company;

(v) fraudulently parts with, alters or makes any omission in, or is privy to the fraudulent parting with, altering or making of any omission in, any book or paper affecting or relating to the property or affairs of the company;

(vi) by any false representation or other fraud, obtains on credit, for or on behalf of the company, any property which the company does not subsequently pay for;

(vii) under the false pretence that the company is carrying on its business, obtains on credit, for or on behalf of the company, any property which the company does not subsequently pay for; or

(viii) pawns, pledges or disposes of any property of the company which has been obtained on credit and has not been paid for, unless such pawning, pledging or disposing of the property is in the ordinary course of business of the company;

(e) makes any material omission in any statement relating to the affairs of the company;

(f) knowing or believing that a false debt has been proved by any person under the winding up, fails for a period of one month to inform the Company Liquidator thereof;

(g) after the commencement of the winding up, prevents the production of any book or paper affecting or relating to the property or affairs of the company;

(h) after the commencement of the winding up or at any meeting of the creditors of the company within the twelve months next before the commencement of the winding up, attempts to account for any part of the property of the company by fictitious losses or expenses; or

(i) is guilty of any false representation or fraud for the purpose of obtaining the consent of the creditors of the company or any of them, to an agreement with reference to the affairs of the company or to the winding up,

he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees:

Provided that it shall be a good defence if the accused proves that he had no intent to defraud or to conceal the true state of affairs of the company or to defeat the law.

(2) Where any person pawns, pledges or disposes of any property in circumstances which amount to an offence under sub-clause (viii) of clause (d) of sub-section (1), every person who takes in pawn or pledge or otherwise receives the property, knowing it to be pawned, pledged, or disposed of in such circumstances as aforesaid, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine which shall not be less than three lakh rupees but which may extend to five lakh rupees.

Explanation.—For the purposes of this section, the expression “officer” includes any person in accordance with whose directions or instructions the directors of the company have been accustomed to act.

337. Penalty for frauds by officers.—If any person, being at the time of the commission of the alleged offence an officer of a company which is subsequently ordered to be wound up by the Tribunal¹[under this Act]—

(a) has, by false pretences or by means of any other fraud, induced any person to give credit to the company;

(b) with intent to defraud creditors of the company or any other person, has made or caused to be made any gift or transfer of, or charge on, or has caused or connived at the levying of any execution against, the property of the company; or

(c) with intent to defraud creditors of the company, has concealed or removed any part of the property of the company since the date of any unsatisfied judgment or order for payment of money obtained against the company or within two months before that date,

he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees.

338. Liability where proper accounts not kept.—(1) Where a company is being wound up, if it is shown that proper books of account were not kept by the company throughout the period of two years immediately preceding the commencement of the winding up, or the period between the incorporation of the company and the commencement of the winding up, whichever is shorter, every officer of the company who is in default shall, unless he shows that he acted honestly and that in the circumstances in which the business of the company was carried on, the default was excusable, be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees.

(2) For the purposes of sub-section (1), it shall be deemed that proper books of account have not been kept in the case of any company,—

(a) if such books of account as are necessary to exhibit and explain the transactions and financial position of the business of the company, including books containing entries made from day-to-day in sufficient detail of all cash received and all cash paid, have not been kept; and

(b) where the business of the company has involved dealings in goods, statements of the annual stock takings and, except in the case of goods sold by way of ordinary retail trade, of all goods sold and purchased, showing the goods and the buyers and the sellers thereof in sufficient detail to enable those goods and those buyers and sellers to be identified, have not been kept.

339. Liability for fraudulent conduct of business.—(1) If in the course of the winding up of a company, it appears that any business of the company has been carried on with intent to defraud creditors of the company or any other persons or for any fraudulent purpose, the Tribunal, on the application of the Official Liquidator, or the Company Liquidator or any creditor or contributory of the company, may, if it thinks it proper so to do, declare that any person, who is or has been a director, manager, or officer of the company or any persons who were knowingly parties to the carrying on of the business in the manner aforesaid shall be personally responsible, without any limitation of liability, for all or any of the debts or other liabilities of the company as the Tribunal may direct:

Provided that on the hearing of an application under this sub-section, the Official Liquidator or the Company Liquidator, as the case may be, may himself give evidence or call witnesses.

(2) Where the Tribunal makes any such declaration, it may give such further directions as it thinks proper for the purpose of giving effect to that declaration and, in particular,—

1. Subs. by Act 31 of 2016, s. 255 and the Eleventh Schedule, for “or which subsequently passes a resolution for voluntary winding up,” (w.e.f. 15-11-2016).

(a) make provision for making the liability of any such person under the declaration a charge on any debt or obligation due from the company to him, or on any mortgage or charge or any interest in any mortgage or charge on any assets of the company held by or vested in him, or any person on his behalf, or any person claiming as assignee from or through the person liable or any person acting on his behalf;

(b) make such further order as may be necessary for the purpose of enforcing any charge imposed under this sub-section.

(3) Where any business of a company is carried on with such intent or for such purpose as is mentioned in sub-section (1), every person who was knowingly a party to the carrying on of the business in the manner aforesaid, shall be liable for action under section 447.

(4) This section shall apply, notwithstanding that the person concerned may be punishable under any other law for the time being in force in respect of the matters on the ground of which the declaration is to be made.

Explanation.—For the purposes of this section,—

(a) the expression “assignee” includes any person to whom or in whose favour, by the directions of the person liable, the debt, obligation, mortgage or charge was created, issued or transferred or the interest was created, but does not include an assignee for valuable consideration, not including consideration by way of marriage, given in good faith and without notice of any of the matters on the ground of which the declaration is made;

(b) the expression “officer” includes any person in accordance with whose directions or instructions the directors of the company have been accustomed to act.

340. Power of Tribunal to assess damages against delinquent directors, etc.—(1) If in the course of winding up of a company, it appears that any person who has taken part in the promotion or formation of the company, or any person, who is or has been a director, manager, Company Liquidator or officer of the company—

(a) has misapplied, or retained, or become liable or accountable for, any money or property of the company; or

(b) has been guilty of any misfeasance or breach of trust in relation to the company,

the Tribunal may, on the application of the Official Liquidator, or the Company Liquidator, or of any creditor or contributory, made within the period specified in that behalf in sub-section (2), inquire into the conduct of the person, director, manager, Company Liquidator or officer aforesaid, and order him to repay or restore the money or property or any part thereof respectively, with interest at such rate as the Tribunal considers just and proper, or to contribute such sum to the assets of the company by way of compensation in respect of the misapplication, retainer, misfeasance or breach of trust, as the Tribunal considers just and proper.

(2) An application under sub-section (1) shall be made within five years from the date of the winding up order, or of the first appointment of the Company Liquidator in the winding up, or of the misapplication, retainer, misfeasance or breach of trust, as the case may be, whichever is longer.

(3) This section shall apply, notwithstanding that the matter is one for which the person concerned may be criminally liable.

341. Liability under sections 339 and 340 to extend to partners or directors in firms or companies.—Where a declaration under section 339 or an order under section 340 is made in respect of a firm or body corporate, the Tribunal shall also have power to make a declaration under section 339, or pass an order under section 340, as the case may be, in respect of any person who was at the relevant time a partner in that firm or a director of that body corporate.

342. Prosecution of delinquent officers and members of company.—(1) If it appears to the Tribunal in the course of a winding up by the Tribunal, that any person, who is or has been an officer, or any member, of the company has been guilty of any offence in relation to the company, the Tribunal may, either on the

application of any person interested in the winding up or *suo motu*, direct the liquidator to prosecute the offender or to refer the matter to the Registrar.

1*

*

*

*

*

(5) When any prosecution is instituted under this section, it shall be the duty of the liquidator and of every person, who is or has been an officer and agent of the company to give all assistance in connection with the prosecution which he is reasonably able to give.

Explanation.—For the purposes of this sub-section, the expression “agent”, in relation to a company, shall include any banker or legal adviser of the company and any person employed by the company as auditor.

2*

*

*

*

*

343. Company Liquidator to exercise certain powers subject to sanction.—³[(1) The Company Liquidator may, with the sanction of the Tribunal, when the company is being wound up by the Tribunal,—

(i) pay any class of creditors in full;

(ii) make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim, present or future, certain or contingent, against the company, or whereby the company may be rendered liable; or

(iii) compromise any call or liability to call, debt, and liability capable of resulting in a debt, and any claim, present or future, certain or contingent, ascertained or sounding only in damages, subsisting or alleged to subsist between the company and a contributory or alleged contributory or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets or liabilities or the winding up of the company, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability or claim, and give a complete discharge in respect thereof.]

(2) Notwithstanding anything contained in sub-section (1), in the case of a winding up by the Tribunal, the Central Government may make rules to provide that the Company Liquidator may, under such circumstances, if any, and subject to such conditions, restrictions and limitations, if any, as may be prescribed, exercise any of the powers referred to in sub-clause (ii) or sub-clause (iii) of clause (b) of sub-section (1) without the sanction of the Tribunal.

(3) Any creditor or contributory may apply in the manner prescribed to the Tribunal with respect to any exercise or proposed exercise of powers by the Company Liquidator under this section, and the Tribunal shall after giving a reasonable opportunity to such applicant and the Company Liquidator, pass such orders as it may think fit.

344. Statement that company is in liquidation.—(1) Where a company is being wound up, whether by the Tribunal or voluntarily, every invoice, order for goods or business letter issued by or on behalf of the company or a Company Liquidator of the company, or a receiver or manager of the property of the company, being a document on or in which the name of the company appears, shall contain a statement that the company is being wound up.

(2) If a company contravenes the provisions of sub-section (1), the company, and every officer of the company, the Company Liquidator and any receiver or manager, who wilfully authorises or permits the non-compliance, shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to three lakh rupees.

345. Books and papers of company to be evidence.—Where a company is being wound up, all books and papers of the company and of the Company Liquidator shall, as between the contributors of the company, be *prima facie* evidence of the truth of all matters purporting to be recorded therein.

1. Sub-sections (2), (3) and (4) omitted by Act 31 of 2016, s. 255 and the Eleventh Schedule (w.e.f. 15-11-2016).

2. Sub-section (6) omitted by Act 29 of 2020, s. 48 (w.e.f. 21-12-2020).

3. Subs. by Act 31 of 2016, s. 255 and the Eleventh Schedule, for sub-section (1) (w.e.f. 15-11-2016).

346. Inspection of books and papers by creditors and contributories.—(1) At any time after the making of an order for the winding up of a company by the Tribunal, any creditor or contributory of the company may inspect the books and papers of the company only in accordance with, and subject to such rules as may be prescribed.

(2) Nothing contained in sub-section (1) shall exclude or restrict any rights conferred by any law for the time being in force—

(a) on the Central Government or a State Government;

(b) on any authority or officer thereof; or

(c) on any person acting under the authority of any such Government or of any such authority or officer.

347. Disposal of books and papers of company.—¹[(1) When the affairs of a company have been completely wound up and it is about to be dissolved, the books and papers of such company and those of the Company Liquidator may be disposed of in such manner as the Tribunal directs.]

(2) After the expiry of five years from the dissolution of the company, no responsibility shall devolve on the company, the Company Liquidator, or any person to whom the custody of the books and papers has been entrusted, by reason of any book or paper not being forthcoming to any person claiming to be interested therein.

(3) The Central Government may, by rules,—

(a) prevent for such period as it thinks proper the destruction of the books and papers of a company which has been wound up and of its Company Liquidator; and

(b) enable any creditor or contributory of the company to make representations to the Central Government in respect of the matters specified in clause (a) and to appeal to the Tribunal from any order which may be made by the Central Government in the matter.

(4) If any person acts in contravention of any rule framed or an order made under sub-section (3), he shall be punishable ^{2***} with fine which may extend to ³[fifty thousand rupees].

348. Information as to pending liquidations.—⁴[(1) If the winding up of a company is not concluded within one year after its commencement, the Company Liquidator shall, unless he is exempted from so doing, either wholly or in part by the Central Government, within two months of the expiry of such year and thereafter until the winding up is concluded, at intervals of not more than one year or at such shorter intervals, if any, as may be prescribed, file a statement in such form containing such particulars as may be prescribed, duly audited, by a person qualified to act as auditor of the company, with respect to the proceedings in, and position of, the liquidation, with the Tribunal:

Provided that no such audit as is referred to in this sub-section shall be necessary where the provisions of section 294 apply.]

(2) When the statement is filed with the Tribunal under clause (a) of sub-section (1), a copy shall simultaneously be filed with the Registrar and shall be kept by him along with the other records of the company.

(3) Where a statement referred to in sub-section (1) relates to a Government company in liquidation, the Company Liquidator shall forward a copy thereof—

(a) to the Central Government, if that Government is a member of the Government company;

(b) to any State Government, if that Government is a member of the Government company; or

1. Subs. by Act 31 of 2016, s. 255 and the Eleventh Schedule, for sub-section (1) (w.e.f. 15-11-2016).

2. The words “with imprisonment for a term which may extend to six months or” omitted by Act 29 of 2020, s. 49 (w.e.f. 21-12-2020).

3. Subs. by s. 49, *ibid.*, for “fifty thousand rupees, or with both” (w.e.f. 21-12-2020).

4. Subs. by s. 255 and the Eleventh Schedule, *ibid.*, for sub-section (1) (w.e.f. 15-11-2016).

(c) to the Central Government and any State Government, if both the Governments are members of the Government company.

(4) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled, by himself or by his agent, at all reasonable times, on payment of the prescribed fee, to inspect the statement referred to in sub-section (1), and to receive a copy thereof or an extract there from.

(5) Any person fraudulently stating himself to be a creditor or contributory under sub-section (4) shall be deemed to be guilty of an offence under section 182 of the Indian Penal Code (45 of 1860), and shall, on the application of the Company Liquidator, be punishable accordingly.

¹[(6) Where a Company Liquidator, who is an insolvency professional registered under the Insolvency and Bankrupt Code, 2016 (31 of 2016) is in default in complying with the provisions of this section, then such default shall be deemed to be a contravention of the provisions of the said Code, and the rules and regulations made thereunder for the purpose of proceedings under chapter VI of Part IV of that Code.]

2*

*

*

*

*

349. Official Liquidator to make payments into public account of India.—Every Official Liquidator shall, in such manner and at such times as may be prescribed, pay the monies received by him as Official Liquidator of any company, into the public account of India in the Reserve Bank of India.

350. Company Liquidator to deposit monies into scheduled bank.—(1) Every Company Liquidator of a company shall, in such manner and at such times as may be prescribed, deposit the monies received by him in his capacity as such in a scheduled bank to the credit of a special bank account opened by him in that behalf:

Provided that if the Tribunal considers that it is advantageous for the creditors or contributories or the company, it may permit the account to be opened in such other bank specified by it.

(2) If any Company Liquidator at any time retains for more than ten days a sum exceeding five thousand rupees or such other amount as the Tribunal may, on the application of the Company Liquidator, authorise him to retain, then, unless he explains the retention to the satisfaction of the Tribunal, he shall—

(a) pay interest on the amount so retained in excess, at the rate of twelve per cent. per annum and also pay such penalty as may be determined by the Tribunal;

(b) be liable to pay any expenses occasioned by reason of his default; and

(c) also be liable to have all or such part of his remuneration, as the Tribunal may consider just and proper, disallowed, or may also be removed from his office.

351. Liquidator not to deposit monies into private banking account.—Neither the Official Liquidator nor the Company Liquidator of a company shall deposit any monies received by him in his capacity as such into any private banking account.

352. Company Liquidation Dividend and Undistributed Assets Account.—(1) Where any company is being wound up and the liquidator has in his hands or under his control any money representing—

(a) dividends payable to any creditor but which had remained unpaid for six months after the date on which they were declared; or

(b) assets refundable to any contributory which have remained undistributed for six months after the date on which they become refundable,

the liquidator shall forthwith deposit the said money into a separate special account to be known as the Company Liquidation Dividend and Undistributed Assets Account maintained in a scheduled bank.

(2) The liquidator shall, on the dissolution of the company, pay into the Company Liquidation Dividend and Undistributed Assets Account any money representing unpaid dividends or undistributed assets in his hands at the date of dissolution.

1. Subs. by Act 29 of 2020, s. 50, for sub-section (6) (w.e.f. 21-12-2020).

2. Sub-section (7) omitted by Act 29 of 2020, s. 50 (w.e.f. 21-12-2020).

(3) The liquidator shall, when making any payment referred to in sub-sections (1) and (2), furnish to the Registrar, a statement in the prescribed form, setting forth, in respect of all sums included in such payment, the nature of the sums, the names and last known addresses of the persons entitled to participate therein, the amount to which each is entitled and the nature of his claim thereto, and such other particulars as may be prescribed.

(4) The liquidator shall be entitled to a receipt from the scheduled bank for any money paid to it under sub-sections (1) and (2), and such receipt shall be an effectual discharge of the Company Liquidator in respect thereof.

(5) Where a company is being wound up voluntarily, the Company Liquidator shall, when filing a statement in pursuance of sub-section (1) of section 348, indicate the sum of money which is payable under sub-sections (1) and (2) of this section during the six months preceding the date on which the said statement is prepared, and shall, within fourteen days of the date of filing the said statement, pay that sum into the Company Liquidation Dividend and Undistributed Assets Account.

(6) Any person claiming to be entitled to any money paid into the Company Liquidation Dividend and Undistributed Assets Account, whether paid in pursuance of this section or under the provisions of any previous company law may apply to the Registrar for payment thereof, and the Registrar, if satisfied that the person claiming is entitled, may make the payment to that person of the sum due:

Provided that the Registrar shall settle the claim of such person within a period of sixty days from the date of receipt of such claim, failing which the Registrar shall make a report to the Regional Director giving reasons of such failure.

(7) Any money paid into the Company Liquidation Dividend and Undistributed Assets Account in pursuance of this section, which remains unclaimed thereafter for a period of fifteen years, shall be transferred to the general revenue account of the Central Government, but a claim to any money so transferred may be preferred under sub-section (6) and shall be dealt with as if such transfer had not been made and the order, if any, for payment on the claim will be treated as an order for refund of revenue.

(8) Any liquidator retaining any money which should have been paid by him into the Company Liquidation Dividend and Undistributed Assets Account under this section shall—

(a) pay interest on the amount so retained at the rate of twelve per cent. per annum and also pay such penalty as may be determined by the Registrar:

Provided that the Central Government may in any proper case remit either in part or in whole the amount of interest which the liquidator is required to pay under this clause;

(b) be liable to pay any expenses occasioned by reason of his default; and

(c) where the winding up is by the Tribunal, also be liable to have all or such part of his remuneration, as the Tribunal may consider just and proper, to be disallowed, and to be removed from his office by the Tribunal.

353. Liquidator to make returns, etc.—(1) If any Company Liquidator who has made any default in filing, delivering or making any return, account or other document, or in giving any notice which he is by law required to file, deliver, make or give, fails to make good the default within fourteen days after the service on him of a notice requiring him to do so, the Tribunal may, on an application made to it by any contributory or creditor of the company or by the Registrar, make an order directing the Company Liquidator to make good the default within such time as may be specified in the order.

(2) Any order under sub-section (1) may provide that all costs of, and incidental to, the application shall be borne by the Company Liquidator.

(3) Nothing in this section shall prejudice the operation of any enactment imposing penalties on a Company Liquidator in respect of any such default as aforesaid.

354. Meetings to ascertain wishes of creditors or contributories.—(1) In all matters relating to the winding up of a company, the Tribunal may—

(a) have regard to the wishes of creditors or contributories of the company, as proved to it by any sufficient evidence;

(b) if it thinks fit for the purpose of ascertaining those wishes, direct meetings of the creditors or contributories to be called, held and conducted in such manner as the Tribunal may direct; and

(c) appoint a person to act as chairman of any such meeting and to report the result thereof to the Tribunal.

(2) While ascertaining the wishes of creditors under sub-section (1), regard shall be had to the value of each debt of the creditor.

(3) While ascertaining the wishes of contributories under sub-section (1), regard shall be had to the number of votes which may be cast by each contributory.

355. Court, tribunal or person, etc., before whom affidavit may be sworn.—(1) Any affidavit required to be sworn under the provisions, or for the purposes, of this Chapter may be sworn—

(a) in India before any court, tribunal, judge or person lawfully authorised to take and receive affidavits; and

(b) in any other country before any court, judge or person lawfully authorised to take and receive affidavits in that country or before an Indian diplomatic or consular officer.

(2) All tribunals, judges, Justices, commissioners and persons acting judicially in India shall take judicial notice of the seal, stamp or signature, as the case may be, of any such court, tribunal, judge, person, diplomatic or consular officer, attached, appended or subscribed to any such affidavit or to any other document to be used for the purposes of this Chapter.

356. Powers of Tribunal to declare dissolution of company void.—(1) Where a company has been dissolved, whether in pursuance of this Chapter or of section 232 or otherwise, the Tribunal may at any time within two years of the date of the dissolution, on application by the Company Liquidator of the company or by any other person who appears to the Tribunal to be interested, make an order, upon such terms as the Tribunal thinks fit, declaring the dissolution to be void, and thereupon such proceedings may be taken as if the company had not been dissolved.

¹[(2) The Tribunal shall—

(a) forward a copy of the order, within thirty days from the date thereof, to the Registrar who shall record the same; and

(b) direct the Company Liquidator or the person on whose application the order was made, to file a certified copy of the order, within thirty days from the date thereof such further period as allowed by the Tribunal, with the Registrar who shall record the same.]

²[**357. Commencement of winding up by Tribunal.**—The winding up of a company by the Tribunal under this Act shall be deemed to commence at the time of the presentation of the petition for the winding up.]

358. Exclusion of certain time in computing period of limitation.—Notwithstanding anything in the Limitation Act, 1963 (36 of 1963), or in any other law for the time being in force, in computing the period of limitation specified for any suit or application in the name and on behalf of a company which is being wound up by the Tribunal, the period from the date of commencement of the winding up of the company to a period of one year immediately following the date of the winding up order shall be excluded.

PART IV.—*Official Liquidators*

359. Appointment of Official Liquidator.—(1) For the purposes of this Act, so far as it relates to the winding up of companies by the Tribunal, the Central Government may appoint as many Official Liquidators, Joint, Deputy or Assistant Official Liquidators as it may consider necessary to discharge the functions of the Official Liquidator.

1. Subs. by Act 29 of 2020, s. 51, for sub-section (2) (w.e.f. 21-12-2020).

2. Subs. by Act 31 of 2016, s. 255 and the Eleventh Schedule, for section 357 (w.e.f. 15-11-2016).

(2) The liquidators appointed under sub-section (1) shall be whole-time officers of the Central Government.

(3) The salary and other allowances of the Official Liquidator, Joint Official Liquidator, Deputy Official Liquidator and Assistant Official Liquidator shall be paid by the Central Government.

360. Powers and functions of Official Liquidator.—(1) The Official Liquidator shall exercise such powers and perform such duties as the Central Government may prescribe.

(2) Without prejudice to the provisions of sub-section (1), the Official Liquidator may—

(a) exercise all or any of the powers as may be exercised by a Company Liquidator under the provisions of this Act; and

(b) conduct inquiries or investigations, if directed by the Tribunal or the Central Government, in respect of matters arising out of winding up proceedings.

361. Summary procedure for liquidation.—(1) Where the company to be wound up under this Chapter,—

(i) has assets of book value not exceeding one crore rupees; and

(ii) belongs to such class or classes of companies as may be prescribed,

the Central Government may order it to be wound up by summary procedure provided under this Part.

(2) Where an order under sub-section (1) is made, the Central Government shall appoint the Official Liquidator as the liquidator of the company.

(3) The Official Liquidator shall forthwith take into his custody or control all assets, effects and actionable claims to which the company is or appears to be entitled.

(4) The Official Liquidator shall, within thirty days of his appointment, submit a report to the Central Government in such manner and form, as may be prescribed, including a report whether in his opinion, any fraud has been committed in promotion, formation or management of the affairs of the company or not.

(5) On receipt of the report under sub-section (4), if the Central Government is satisfied that any fraud has been committed by the promoters, directors or any other officer of the company, it may direct further investigation into the affairs of the company and that a report shall be submitted within such time as may be specified.

(6) After considering the investigation report under sub-section (5), the Central Government may order that winding up may be proceeded under Part I of this Chapter or under the provision of this Part.

362. Sale of assets and recovery of debts due to company.—(1) The Official Liquidator shall expeditiously dispose of all the assets whether movable or immovable within sixty days of his appointment.

(2) The Official Liquidator shall serve a notice within thirty days of his appointment calling upon the debtors of the company or the contributories, as the case may be, to deposit within thirty days with him the amount payable to the company.

(3) Where any debtor does not deposit the amount under sub-section (2), the Central Government may, on an application made to it by the Official Liquidator, pass such orders as it thinks fit.

(4) The amount recovered under this section by the Official Liquidator shall be deposited in accordance with the provisions of section 349.

363. Settlement of claims of creditors by Official Liquidator.—(1) The Official Liquidator within thirty days of his appointment shall call upon the creditors of the company to prove their claims in such manner as may be prescribed, within thirty days of the receipt of such call.

(2) The Official Liquidator shall prepare a list of claims of creditors in such manner as may be prescribed and each creditor shall be communicated of the claims accepted or rejected along with reasons to be recorded in writing.

364. Appeal by creditor.—(1) Any creditor aggrieved by the decision of the Official Liquidator under section 363 may file an appeal before the Central Government within thirty days of such decision.

(2) The Central Government may after calling the report from the Official Liquidator either dismiss the appeal or modify the decision of the Official Liquidator.

(3) The Official Liquidator shall make payment to the creditors whose claims have been accepted.

(4) The Central Government may, at any stage during settlement of claims, if considers necessary, refer the matter to the Tribunal for necessary orders.

365. Order of dissolution of company.—(1) The Official Liquidator shall, if he is satisfied that the company is finally wound up, submit a final report to—

(i) the Central Government, in case no reference was made to the Tribunal under sub-section (4) of section 364; and

(ii) in any other case, the Central Government and the Tribunal.

(2) The Central Government, or as the case may be, the Tribunal on receipt of such report shall order that the company be dissolved.

(3) Where an order is made under sub-section (2), the Registrar shall strike off the name of the company from the register of companies and publish a notification to this effect.

CHAPTER XXI

PART I.—*Companies Authorised to Register under this Act*

366. Companies capable of being registered.—(1) For the purposes of this Part, the word “company” includes any partnership firm, limited liability partnership, cooperative society, society or any other business entity formed under any other law for the time being in force which applies for registration under this Part.

(2) With the exceptions and subject to the provisions contained in this section, any company formed, whether before or after the commencement of this Act, in pursuance of any Act of Parliament other than this Act or of any other law for the time being in force or being otherwise duly constituted according to law, and consisting of ¹[two or more members], may at any time register under this Act as an unlimited company, or as a company limited by shares, or as a company limited by guarantee, in such manner as may be prescribed and the registration shall not be invalid by reason only that it has taken place with a view to the company’s being wound up:

Provided that—

(i) a company registered under the Indian Companies Act, 1882 (6 of 1882) or under the Indian Companies Act, 1913 (7 of 1913) or the Companies Act, 1956 (1 of 1956), shall not register in pursuance of this section;

(ii) a company having the liability of its members limited by any Act of Parliament other than this Act or by any other law for the time being in force, shall not register in pursuance of this section as an unlimited company or as a company limited by guarantee;

(iii) a company shall be registered in pursuance of this section as a company limited by shares only if it has a permanent paid-up or nominal share capital of fixed amount divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in the one way and partly in the other, and formed on the principle of having for its members the holders of those shares or that stock, and no other persons;

(iv) a company shall not register in pursuance of this section without the assent of a majority of such of its members as are present in person, or where proxies are allowed, by proxy, at a general meeting summoned for the purpose;

(v) where a company not having the liability of its members limited by any Act of Parliament or any other law for the time being in force is about to register as a limited company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present in person, or where proxies are allowed, by proxy, at the meeting;

1. Subs. by Act 1 of 2018, s. 75, for “seven or more members” (w.e.f. 15-8-2018).

(vi) where a company is about to register as a company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the company, in the event of its being wound up while he is a member, or within one year after he ceases to be a member, for payment of the debts and liabilities of the company or of such debts and liabilities as may have been contracted before he ceases to be a member, and of the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.

¹[(vii) a company with less than seven members shall register as a private company.]

(3) In computing any majority required for the purposes of sub-section (1), when a poll is demanded, regard shall be had to the number of votes to which each member is entitled according to the regulations of the company.

367. Certificate of registration of existing companies.—On compliance with the requirements of this Chapter with respect to registration, and on payment of such fees, if any, as are payable under section 403, the Registrar shall certify under his hand that the company applying for registration is incorporated as a company under this Act, and in the case of a limited company that it is limited and thereupon the company shall be so incorporated.

368. Vesting of property on registration.—All property, movable and immovable (including actionable claims), belonging to or vested in a company at the date of its registration in pursuance of this Part, shall, on such registration, pass to and vest in the company as incorporated under this Act for all the estate and interest of the company therein.

369. Saving of existing liabilities.—The registration of a company in pursuance of this Part shall not affect its rights or liabilities in respect of any debt or obligation incurred, or any contract entered into, by, to, with, or on behalf of, the company before registration.

370. Continuation of pending legal proceedings.—All suits and other legal proceedings taken by or against the company, or any public officer or member thereof, which are pending at the time of the registration of a company in pursuance of this Part, may be continued in the same manner as if the registration had not taken place:

Provided that execution shall not issue against the property or persons of any individual member of the company on any decree or order obtained in any such suit or proceeding; but, in the event of the property of the company being insufficient to satisfy the decree or order, an order may be obtained for winding up the company ²[in accordance with the provisions of this Act or of the Insolvency and Bankruptcy Code, 2016 (31 of 2016)].

371. Effect of registration under this Part.—(1) When a company is registered in pursuance of this Part, sub-sections (2) to (7) shall apply.

(2) All provisions contained in any Act of Parliament or any other law for the time being in force, or other instrument constituting or regulating the company, including, in the case of a company registered as a company limited by guarantee, the resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the company, in the same manner and with the same incidents as if so much thereof as would, if the company had been formed under this Act, have been required to be inserted in the memorandum, were contained in a registered memorandum, and the residue thereof were contained in registered articles.

(3) All the provisions of this Act shall apply to the company and the members, contributories and creditors thereof, in the same manner in all respects as if it had been formed under this Act, subject as follows:—

(a) Table F in Schedule I shall not apply unless and except in so far as it is adopted by special resolution;

(b) the provisions of this Act relating to the numbering of shares shall not apply to any company whose shares are not numbered;

1. Ins. by Act 1 of 2018, s. 75 (w.e.f. 15-8-2018).

2. Ins. by Act 31 of 2016, s. 255 and the Eleventh Schedule (w.e.f. 15-11-2016).

(c) in the event of the company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the company contracted before registration, who is liable to pay or contribute to the payment of any debt or liability of the company contracted before registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members among themselves in respect of any such debt or liability, or to pay or contribute to the payment of the costs, charges and expenses of winding up the company, so far as relates to such debts or liabilities as aforesaid;

(d) in the event of the company being wound up, every contributory shall be liable to contribute to the assets of the company, in the course of the winding up, all sums due from him in respect of any such liability as aforesaid; and in the event of the death or insolvency of any contributory, the provisions of this Act with respect to the legal representatives of deceased contributories, or with respect to the assignees of insolvent contributories, as the case may be, shall apply.

(4) The provisions of this Act with respect to—

(a) the registration of an unlimited company as a limited company;

(b) the powers of an unlimited company on registration as a limited company, to increase the nominal amount of its share capital and to provide that a portion of its share capital shall not be capable of being called-up except in the event of winding up;

(c) the power of a limited company to determine that a portion of its share capital shall not be capable of being called-up except in the event of winding up,

shall apply, notwithstanding anything in any Act of Parliament or any other law for the time being in force, or other instrument constituting or regulating the company.

(5) Nothing in this section shall authorise the company to alter any such provisions contained in any instrument constituting or regulating the company as would, if the company had originally been formed under this Act, have been required to be contained in the memorandum and are not authorised to be altered by this Act.

(6) None of the provisions of this Act (apart from those of section 242) shall derogate from any power of altering its constitution or regulations which may be vested in the company, by virtue of any Act of Parliament or any other law for the time being in force, or other instrument constituting or regulating the company.

(7) In this section, the expression “instrument” includes deed of settlement, deed of partnership, or limited liability partnership.

372. Power of Court to stay or restrain proceedings.—The provisions of this Act ¹[or of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), as the case may be,] with respect to staying and restraining suits and other legal proceedings against a company at any time after the presentation of a petition for winding up and before the making of a winding up order, shall, in the case of a company registered in pursuance of this Part, where the application to stay or restrain is by a creditor, extend to suits and other legal proceedings against any contributory of the company.

373. Suits stayed on winding up order.—Where an order has been made for winding up, or a provisional liquidator has been appointed for, a company registered in pursuance of this Part, no suit or other legal proceeding shall be proceeded with or commenced against the company or any contributory of the company in respect of any debt of the company, except by leave of the Tribunal and except on such terms as the Tribunal may impose.

374. Obligations of companies registering under this Part.—Every company which is seeking registration under this Part shall,—

(a) ensure that secured creditors of the company, prior to its registration under this Part, have either consented to or have given their no objection to company's registration under this Part;

(b) publish in a newspaper, advertisement one in English and one in vernacular language in such form as may be prescribed giving notice about registration under this Part, seeking objections and address them suitably;

1. The proviso ins. by Act 31 of 2016, s. 255 and the Eleventh Schedule (w.e.f. 15-11-2016).

(c) file an affidavit, duly notarised, from all the members or partners to provide that in the event of registration under this Part, necessary documents or papers shall be submitted to the registering or other authority with which the company was earlier registered, for its dissolution as partnership firm, limited liability partnership, cooperative society, society or any other business entity, as the case may be.

(d) comply with such other conditions as may be prescribed.

¹[Provided that upon registration as a company under this Part a limited liability partnership incorporated under the Limited Liability Partnership Act, 2008 (6 of 2009) shall be deemed to have been dissolved under that Act without any further act or deed.]

PART II.—*Winding up of unregistered companies*

375. Winding up of unregistered companies.—(1) Subject to the provisions of this Part, any unregistered company may be wound up under this Act, in such manner as may be prescribed, and all the provisions of this Act, with respect to winding up shall apply to an unregistered company, with the exceptions and additions mentioned in sub-sections (2) to (4).

(2) No unregistered company shall be wound up under this Act voluntarily.

(3) An unregistered company may be wound up under the following circumstances, namely:—

(a) if the company is dissolved, or has ceased to carry on business, or is carrying on business only for the purpose of winding up its affairs;

(b) if the company is unable to pay its debts;

(c) if the Tribunal is of opinion that it is just and equitable that the company should be wound up.

(4) An unregistered company shall, for the purposes of this Act, be deemed to be unable to pay its debts—

(a) if a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding one lakh rupees then due, has served on the company, by leaving at its principal place of business, or by delivering to the secretary, or some director, manager or principal officer of the company, or by otherwise serving in such manner as the Tribunal may approve or direct, a demand under his hand requiring the company to pay the sum so due, and the company has, for three weeks after the service of the demand, neglected to pay the sum or to secure or compound for it to the satisfaction of the creditor;

(b) if any suit or other legal proceeding has been instituted against any member for any debt or demand due, or claimed to be due, from the company, or from him in his character as a member, and notice in writing of the institution of the suit or other legal proceeding having been served on the company by leaving the same at its principal place of business or by delivering it to the secretary, or some director, manager or principal officer of the company or by otherwise serving the same in such manner as the Tribunal may approve or direct, the company has not, within ten days after service of the notice,—

(i) paid, secured or compounded for the debt or demand;

(ii) procured the suit or other legal proceeding to be stayed; or

(iii) indemnified the defendant to his satisfaction against the suit or other legal proceeding, and against all costs, damages and expenses to be incurred by him by reason of the same;

(c) if execution or other process issued on a decree or order of any Court or Tribunal in favour of a creditor against the company, or any member thereof as such, or any person authorised to be sued as nominal defendant on behalf of the company, is returned unsatisfied in whole or in part;

(d) if it is otherwise proved to the satisfaction of the Tribunal that the company is unable to pay its debts.

Explanation.—For the purposes of this Part, the expression “unregistered company”—

1. The proviso ins. by Act 1 of 2018, s. 76 (w.e.f. 15-8-2018).

(a) shall not include—

(i) a railway company incorporated under any Act of Parliament or other Indian law or any Act of Parliament of the United Kingdom;

(ii) a company registered under this Act; or

(iii) a company registered under any previous companies law and not being a company the registered office whereof was in Burma, Aden, Pakistan immediately before the separation of that country from India; and

(b) save as aforesaid, shall include any partnership firm, limited liability partnership or society or co-operative society, association or company consisting of more than seven members at the time when the petition for winding up the partnership firm, limited liability partnership or society or co-operative society, association or company, as the case may be, is presented before the Tribunal.

376. Power to wind up foreign companies, although dissolved.— Where a body corporate incorporated outside India which has been carrying on business in India, ceases to carry on business in India, it may be wound up as an unregistered company under this Part, notwithstanding that the body corporate has been dissolved or otherwise ceased to exist as such under or by virtue of the laws of the country under which it was incorporated.

377. Provisions of Chapter cumulative.—(1) The provisions of this Part, with respect to unregistered companies shall be in addition to and not in derogation of, any provisions hereinbefore in this Act contained with respect to the winding up of companies by the Tribunal.

(2) The Tribunal or Official Liquidator may exercise any powers or do any act in the case of unregistered companies which might be exercised or done by the Tribunal or Official Liquidator in winding up of companies formed and registered under this Act:

Provided that an unregistered company shall not, except in the event of its being wound up, be deemed to be a company under this Act, and then only to the extent provided by this Part.

378. Saving and construction of enactments conferring power to wind up partnership firm, association or company, etc., in certain cases.—Nothing in this Part, shall affect the operation of any enactment which provides for any partnership firm, limited liability partnership or society or co-operative society, association or company being wound up, or being wound up as a company or as an unregistered company, under the Companies Act, 1956 (1 of 1956), or any Act repealed by that Act:

Provided that references in any such enactment to any provision contained in the Companies Act, 1956 (1 of 1956) or in any Act repealed by that Act shall be read as references to the corresponding provision, if any, contained in this Act.

¹[CHAPTER XXIA

PRODUCER COMPANIES

PART I

PRELIMINARY

378A. Definitions.— In this Chapter, unless the context otherwise requires,—

(a) “active Member” means a Member who fulfils the quantum and period of patronage of the Producer Company as may be required by the articles;

(b) “Chief Executive” means an individual appointed as such under sub-section (1) of section 378W;

(c) “inter-State co-operative society” means a multi-State co-operative society as defined in clause (p) of section 3 of the Multi-State Co-operative Societies Act, 2002 (39 of 2002) and includes any co-

1. Ins. by Act 29 of 2020, s. 52 (w.e.f. 11-2-2021).

operative society registered under any other law for the time being in force, which has, subsequent to its formation, extended any of its objects to more than one State by enlisting the participation of persons or by extending any of its activities outside the State, whether directly or indirectly or through an institution of which it is a constituent;

(d) "limited return" means the maximum dividend as may be specified by the articles;

(e) "Member" means a person or Producer Institution (whether incorporated or not) admitted as a Member of a Producer Company and who retains the qualifications necessary for continuance as such;

(f) "mutual assistance principles" means the principles set out in sub-section (2) of section 378G;

(g) "officer" includes any director or Chief Executive or Secretary or any person in accordance with whose directions or instructions part or whole of the business of the Producer Company is carried on;

(h) "patronage" means the use of services offered by the Producer Company to its Members by participation in its business activities;

(i) "patronage bonus" means payments made by a Producer Company out of its surplus income to the Members in proportion to their respective patronage;

(j) "primary produce" means —

(i) produce of farmers, arising from agriculture (including animal husbandry, horticulture, floriculture, pisciculture, viticulture, forestry, forest products, re-vegetation, bee raising and farming plantation products), or from any other primary activity or service which promotes the interest of the farmers or consumers; or

(ii) produce of persons engaged in handloom, handicraft and other cottage industries; or

(iii) any product resulting from any of the above activities, including by-products of such products; or

(iv) any product resulting from an ancillary activity that may assist or promote any of the aforesaid activities or anything ancillary thereto; or

(v) any activity which is intended to increase the production of anything referred to in sub-clauses (i) to (iv) or improve the quality thereof;

(k) "producer" means any person engaged in any activity connected with or relatable to any primary produce;

(l) "Producer Company" means a body corporate having objects or activities specified in section 378B and registered as Producer Company under this Act or under the Companies Act, 1956 (1 of 1956);

(m) "Producer Institution" means a Producer Company or any other institution having only producer or producers or Producer Company or Producer Companies as its member whether incorporated or not having any of the objects referred to in section 378B and which agrees to make use of the services of the Producer Company or Producer Companies as provided in its articles;

(n) "withheld price" means part of the price due and payable for goods supplied by any Member to the Producer Company; and as withheld by the Producer Company for payment on a subsequent date.

PART II

INCORPORATION OF PRODUCER COMPANIES AND OTHER MATTERS

378B. Objects of Producer Company.—(1) The objects of the Producer Company shall relate to all or any of the following matters, namely:—

(a) production, harvesting, procurement, grading, pooling, handling, marketing, selling, export of primary produce of the Members or import of goods or services for their benefit:

Provided that the Producer Company may carry on any of the activities specified in this clause either by itself or through other institution;

(b) processing including preserving, drying, distilling, brewing, vinting, canning and packaging of produce of its Members;

(c) manufacture, sale or supply of machinery, equipment or consumables mainly to its Members;

(d) providing education on the mutual assistance principles to its Members and others;

(e) rendering technical services, consultancy services, training, research and development and all other activities for the promotion of the interests of its Members;

(f) generation, transmission and distribution of power, revitalisation of land and water resources, their use, conservation and communications relatable to primary produce;

(g) insurance of producers or their primary produce;

(h) promoting techniques of mutuality and mutual assistance;

(i) welfare measures or facilities for the benefit of Members as may be decided by the Board;

(j) any other activity, ancillary or incidental to any of the activities referred to in clauses (a) to (i) or other activities which may promote the principles of mutuality and mutual assistance amongst the Members in any other manner;

(k) financing of procurement, processing, marketing or other activities specified in clauses (a) to (j) which include extending of credit facilities or any other financial services to its Members.”.

(2) Every Producer Company shall deal primarily with the produce of its active Members for carrying out any of its objects specified in this section.

378C. Formation of Producer Company and its registration.—(1) Any ten or more individuals, each of them being a producer or any two or more Producer Institutions, or a combination of ten or more individuals and Producer Institutions, desirous of forming a Producer Company having its objects specified in section 378B and otherwise complying with the requirements of this Chapter and the provisions of this Act in respect of registration, may form an incorporated company as a Producer Company under this Act.

(2) If the Registrar is satisfied that all the requirements of this Act have been complied with in respect of registration and matters precedent and incidental thereto, he shall, within thirty days of the receipt of the documents required for registration, register the memorandum, the articles and other documents, if any, and issue a certificate of incorporation under this Act.

(3) A Producer Company so formed shall have the liability of its Members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them and be termed a company limited by shares.

(4) The Producer Company may reimburse to its promoters all other direct costs associated with the promotion and registration of the company including registration, legal fees, printing of a memorandum

and articles and the payment thereof shall be subject to the approval at its first general meeting of the Members.

(5) On registration under sub-section (2), the Producer Company shall become a body corporate as if it is a private limited company to which the provisions contained in this Chapter apply, without, however, any limit to the number of Members thereof, and the Producer Company shall not, under any circumstance, whatsoever, become or be deemed to become a public limited company under this Act.

378D. Membership and voting rights of Members of Producer Company.—(1)(a) In a case where the membership consists solely of individual Members, the voting rights shall be based on a single vote for every Member, irrespective of his shareholding or patronage of the Producer Company.

(b) In a case where the membership consists of Producer Institutions only, the voting rights of such Producer Institutions shall be determined on the basis of their participation in the business of the Producer Company in the previous year, as may be specified by articles:

Provided that during the first year of registration of a Producer Company, the voting rights shall be determined on the basis of the shareholding by such Producer Institutions.

(c) In a case where the membership consists of individuals and Producer Institutions, the voting rights shall be computed on the basis of a single vote for every Member.

(2) The articles of any Producer Company may provide for the conditions, subject to which a Member may continue to retain his membership, and the manner in which voting rights shall be exercised by the Members.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), any Producer Company may, if so authorised by its articles, restrict the voting rights to active Members, in any special or general meeting.

(4) No person, who has any business interest which is in conflict with business of the Producer Company, shall become a Member of that Company.

(5) A Member, who acquires any business interest which is in conflict with the business of the Producer Company, shall cease to be a Member of that Company and be removed as a Member in accordance with the articles.

378E. Benefits to Members.—(1) Subject to the provisions made in articles, every Member shall initially receive only such value for the produce or products pooled and supplied as the Board of Producer Company may determine, and the withheld price may be disbursed later in cash or in kind or by allotment of equity shares, in proportion to the produce supplied to the Producer Company during the financial year to such extent and in such manner and subject to such conditions as may be decided by the Board.

(2) Every Member shall, on the share capital contributed, receive only a limited return:

Provided that every such Member may be allotted bonus shares in accordance with the provisions contained in section 378ZJ.

(3) The surplus if any, remaining after making provision for payment of limited return and reserves referred to in section 378ZI, may be disbursed as patronage bonus, amongst the Members, in proportion to their participation in the business of the Producer Company, either in cash or by way of allotment of equity shares, or both, as may be decided by the Members at the general meeting.

378F. Memorandum of Producer Company.—The memorandum of association of every Producer Company shall state—

(a) the name of the company with "Producer Company Limited" as the last words of the name of such Company;

(b) the State in which the registered office of the Producer Company is to situate;

(c) the main objects of the Producer Company shall be one or more of the objects specified in section 378B;

- (d) the names and addresses of the persons who have subscribed to the memorandum;
 - (e) the amount of share capital with which the Producer Company is to be registered and division thereof into shares of a fixed amount;
 - (f) the names, addresses and occupations of the subscribers being producers, who shall act as the first directors in accordance with sub-section (2) of section 378J;
 - (g) that the liability of its members is limited;
 - (h) against the subscriber's name, the number of shares each subscriber takes:
- Provided that no subscriber shall take less than one share;
- (i) that in case the objects of the Producer Company are not confined to one State, the States to whose territories the objects extend.

378G. Articles of association.—(1) There shall be presented, for registration to the Registrar of the State to which the registered office of the Producer Company is, stated by the memorandum of association, to be situate—

- (a) memorandum of the Producer Company;
 - (b) its articles duly signed by the subscribers to the memorandum.
- (2) The articles shall contain the following mutual assistance principles, namely:—
- (a) the membership shall be voluntary and available, to all eligible persons who, can participate or avail of the facilities or services of the Producer Company, and are willing to accept the duties of membership;
 - (b) each Member shall, save as otherwise provided in this Chapter, have only a single vote irrespective of the shareholding;
 - (c) the Producer Company shall be administered by a Board consisting of persons elected or appointed as directors in the manner consistent with the provisions of this Chapter and the Board shall be accountable to the Members;
 - (d) particulars on limited return on share capital;
 - (e) the surplus arising out of the operations of the Producer Company shall be distributed in an equitable manner by—
 - (i) providing for the development of the business of the Producer Company;
 - (ii) providing for common facilities; and
 - (iii) distributing amongst the Members, as may be admissible in proportion to their respective participation in the business;
 - (f) provision for the education of Members, employees and others, on the principles of mutuality and techniques of mutual assistance;
 - (g) the Producer Company shall actively co-operate with other Producer Companies (and other organisations following similar principles) at local, national or international level so as to best serve the interest of their Members and the communities it purports to serve.

(3) Without prejudice to the generality of the foregoing provisions of sub-sections (1) and (2), the articles shall contain the following provisions, namely:—

- (a) the qualifications for membership, the conditions for continuance or cancellation of membership and the terms, conditions and procedure for transfer of shares;
- (b) the manner of ascertaining the patronage and voting right based on patronage;
- (c) subject to the provisions contained in sub-section (1) of section 378N, the manner of constitution of the Board, its powers and duties, the minimum and maximum number of directors, manner of election

and appointment of directors and retirement by rotation, qualifications for being elected or continuance as such and the terms of office of the said directors, their powers and duties, conditions for election or co-option of directors, method of removal of directors and the filling up of vacancies on the Board, and the manner and the terms of appointment of the Chief Executive;

(d) the election of the Chairman, term of office of directors and the Chairman, manner of voting at the general or special meetings of Members, procedure for voting, by directors at meetings of the Board, powers of the Chairman and the circumstances under which the Chairman may exercise a casting vote;

(e) the circumstances under which, and the manner in which, the withheld price is to be determined and distributed;

(f) the manner of disbursement of patronage bonus in cash or by issue of equity shares, or both;

(g) the contribution to be shared and related matters referred to in sub-section (2) of section 378ZI;

(h) the matters relating to issue of bonus shares out of general reserves as set out in section 378ZJ;

(i) the basis and manner of allotment of equity shares of the Producer Company in lieu of the whole or part of the sale proceeds of produce or products supplied by the Members;

(j) the amount of reserves, sources from which funds may be raised, limitation on raising of funds, restriction on the use of such funds and the extent of debt that may be contracted and the conditions thereof;

(k) the credit, loans or advances which may be granted to a Member and the conditions for the grant of the same;

(l) the right of any Member to obtain information relating to general business of the company;

(m) the basis and manner of distribution and disposal of funds available after meeting liabilities in the event of dissolution or liquidation of the Producer Company;

(n) the authorisation for division, amalgamation, merger, creation of subsidiaries and the entering into joint ventures and other matters connected therewith;

(o) laying of the memorandum and articles of the Producer Company before a special general meeting to be held within ninety days of its registration;

(p) any other provision, which the Members may, by special resolution recommend to be included in the articles.

378H. Amendment of memorandum.—(1) A Producer Company shall not alter the conditions contained in its memorandum except in the cases, by the mode and to the extent for which express provision is made in this Act.

(2) A Producer Company may, by special resolution, not inconsistent with section 378B, alter its objects specified in its memorandum.

(3) A copy of the amended memorandum, together with a copy of the special resolution duly certified by two directors, shall be filed with the Registrar within thirty days from the date of adoption of any resolution referred to in sub-section (2):

Provided that in the case of transfer of the registered office of a Producer Company from the jurisdiction of one Registrar to another, certified copies of the special resolution certified by two directors shall be filed with both the Registrars within thirty days, and each Registrar shall record the same, and thereupon the Registrar from whose jurisdiction the office is transferred, shall forthwith forward to the other Registrar all documents relating to the Producer Company.

(4) The alteration of the provisions of memorandum relating to the change of the place of its registered office from one State to another shall not take effect unless it is approved by the Central Government on an application in such form and manner as may be prescribed.

378-I. Amendment of articles.—(1) Any amendment of the articles shall be proposed by not less than two-thirds of the elected directors or by not less than one-third of the Members of the Producer Company, and adopted by the Members by a special resolution.

(2) A copy of the amended articles together with the copy of the special resolution, both duly certified by two directors, shall be filed with the Registrar within fifteen days from the date of its adoption.

378J. Option to inter-State co-operative societies to become Producer Companies.—(1) Notwithstanding anything contained in sub-section (1) of section 378C, any inter-State co-operative society with objects not confined to one State may make an application to the Registrar for registration as Producer Company under this Chapter.

(2) Every application under sub-section (1) shall be accompanied by—

(a) a copy of the special resolution, of not less than two-thirds of total members of inter-State co-operative society, for its incorporation as a Producer Company under this Act;

(b) a statement showing—

(i) names and addresses or the occupation of the directors and the Chief Executive, if any, by whatever name called, of such co-operative; and

(ii) list of members of such inter-State co-operative society;

(c) a statement indicating that the inter-State co-operative society is engaged in any one or more of the objects specified in section 378B;

(d) a declaration by two or more directors of the inter-State co-operative society certifying that particulars given in clauses (a) to (c) are correct.

(3) When an inter-State co-operative society is registered as a Producer Company, the words “Producer Company Limited” shall form part of its name with any word or expression to show its identity preceding it.

(4) On compliance with the requirements of sub-sections (1) to (3), the Registrar shall, within a period of thirty days of the receipt of application, certify under his hand that the inter-State co-operative society applying for registration is registered and thereby incorporated as a Producer Company under this Chapter.

(5) A co-operative society formed by producers, by federation or union of co-operative societies of producers or co-operatives of producers, registered under any law for the time being in force which has extended its objects outside the State, either directly or through a union or federation of co-operatives of which it is a constituent, as the case may be, and any federation or unions of such co-operatives, which has so extended any of its objects or activities outside the State, shall be eligible to make an application under sub-section (1) and to obtain registration as a Producer Company under this Chapter.

(6) The inter-State co-operative society shall, upon registration under sub-section (1), stand transformed into a Producer Company, and thereafter shall be governed by the provisions of this Chapter to the exclusion of the law by which it was earlier governed, save in so far as anything done or omitted to be done before its registration as a Producer Company, and notwithstanding anything contained in any other law for the time being in force, no person shall have any claim against the co-operative institution or the company by reason of such conversion or transformation.

(7) Upon registration as a Producer Company, the Registrar of Companies who registers the company shall forthwith intimate the Registrar with whom the erstwhile inter-State co-operative society was earlier registered for deletion of the society from its register.

378K. Effect of incorporation of Producer Company.—Every shareholder of the inter-State co-operative society immediately before the date of registration of Producer Company (hereafter in this Chapter referred to as the date of transformation) shall be deemed to be registered on and from that date as a shareholder of the Producer Company to the extent of the face value of the shares held by such shareholder.

378L. Vesting of undertaking in Producer Company.—(1) All properties and assets, movable and immovable, of, or belonging to, the inter-State co-operative society as on the date of transformation, shall vest in the Producer Company.

(2) All the rights, debts, liabilities, interests, privileges and obligations of the inter-State co-operative society as on the date of transformation shall stand transferred to, and be the rights, debts, liabilities, interests, privileges and obligations of, the Producer Company.

(3) Without prejudice to the provisions contained in sub-section (2), all debts, liabilities and obligations incurred, all contracts entered into and all matters and things engaged to be done by, with or for, the society as on the date of transformation for or in connection with their purposes, shall be deemed to have been incurred, entered into, or engaged to be done by, with or for, the Producer Company.

(4) All sums of money due to the inter-State co-operative society immediately before the date of transformation, shall be deemed to be due to the Producer Company.

(5) Every organisation, which was being managed immediately before the date of transformation by the inter-State co-operative society shall be managed by the Producer Company for such period, to such extent and in such manner as the circumstances may require.

(6) Every organisation which was getting financial, managerial or technical assistance from the inter-State co-operative society, immediately before the date of transformation, may continue to be given financial, managerial or technical assistance, as the case may be, by the Producer Company, for such period, to such extent and in such manner as that company may deem fit.

(7) The amount representing the capital of the erstwhile inter-State co-operative society shall form part of the capital of the Producer Company.

(8) Any reference to the inter-State co-operative society in any law other than this Act or in any contract or other instrument, shall be deemed to be reference to the Producer Company.

(9) If, on the date of transformation, there is pending any suit, arbitration, appeal or other legal proceeding of whatever nature by or against the inter-State co-operative society, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the incorporation of the Producer Company under section 378C or transformation of the inter-State co-operative society as a Producer Company under section 378J, as the case may be, but the suit, arbitration, appeal or other proceeding, may be continued, prosecuted and enforced by or against the Producer Company in the same manner and to the same extent as it would have, or may have been continued, prosecuted and enforced by or against the inter-State co-operative society as if the provisions contained in this Chapter had not come into force.

378M. Concession etc., to be deemed to have been granted to Producer Company.—With effect from the date of transformation, all fiscal and other concessions, licences, benefits, privileges and exemptions granted to the inter-State co-operative society in connection with the affairs and business of the inter-State co-operative society under any law for the time being in force shall be deemed to have been granted to the Producer Company.

378N. Provisions in respect of officers and other employees of inter-State co-operative society.—

(1) Notwithstanding anything contained in section 378-O, all the directors in the inter-State co-operative society before the incorporation of the Producer Company shall continue in office for a period of one year from the date of transformation and in accordance with the provisions of this Act.

(2) Every officer or other employee of the inter-State co-operative society (except a director of the Board, Chairman or Managing Director) serving in its employment immediately before the date of transformation shall, in so far as such officer or other employee is employed in connection with the inter-State co-operative society which has vested in the Producer Company by virtue of this Act, become, as from the date of transformation, an officer or, as the case may be, other employee of the Producer Company and shall hold his office or service therein by the same tenure, at the same remuneration, upon the same terms and conditions, with the same obligations and with the same rights and privileges as to leave, leave travel concession, welfare scheme, medical benefit scheme, insurance, provident fund, other funds, retirement, voluntary retirement, gratuity and other benefits as he would have held under the erstwhile inter-

State co-operative society if its undertaking had not vested in the Producer Company and shall continue to do so as an officer or, as the case may be, other employee of the Producer Company.

(3) Where an officer or other employee of the inter-State co-operative society opts under sub-section (2) not to be in employment or service of the Producer Company, such officer or other employee shall be deemed to have resigned.

(4) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947) or in any other law for the time being in force, the transfer of the services of any officer or other employee of the inter-State co-operative society to the Producer Company shall not entitle such officer or other employee to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(5) The officers and other employees who have retired before the date of transformation from the service of the inter-State co-operative society and are entitled to any benefits, rights or privileges, shall be entitled to receive the same benefits, rights or privileges from the Producer Company.

(6) The trusts of the provident fund or the gratuity fund of the inter-State co-operative society and any other bodies created for the welfare of officers or employees shall continue to discharge functions in the Producer Company as was being done hitherto in the inter-State co-operative society and any tax exemption granted to the provident fund or the gratuity fund would continue to be applied to the Producer Company.

(7) Notwithstanding anything contained in this Act or in any other law for the time being in force or in the regulations of the inter-State co-operative society, no director of the Board, Chairman, Managing Director or any other person entitled to manage the whole or substantial part of the business and affairs of the inter-State co-operative society shall be entitled to any compensation against the inter-State co-operative society or the Producer Company for the loss of office or for the premature termination of any contract of management entered into by him with the inter-State co-operative society.

PART III

MANAGEMENT OF PRODUCER COMPANY

378-O. Number of directors.—Every Producer Company shall have at least five and not more than fifteen directors:

Provided that in the case of an inter-State co-operative society incorporated as a Producer Company, such company may have more than fifteen directors for a period of one year from the date of its incorporation as a Producer Company.

378P. Appointment of directors.—(1) Save as otherwise provided in section 378N, the Members who sign the memorandum and the articles may designate therein the Board of Directors, not less than five, who shall govern the affairs of the Producer Company until the directors are elected in accordance with the provisions of this section.

(2) The election of directors shall be conducted within a period of ninety days of the registration of the Producer Company:

Provided that in the case of an inter-State co-operative society which has been registered as a Producer Company under sub-section (4) of section 378J in which at least five directors [including the directors continuing in office under sub-section (1) of section 378N] hold office as such on the date of registration of such company, the provisions of this sub-section shall have effect as if for the words "ninety days", the words "three hundred and sixty-five days" had been substituted.

(3) Every person shall hold office of a director for a period not less than one year but not exceeding five years as may be specified in the articles.

(4) Every director, who retires in accordance with the articles, shall be eligible for re-appointment as a director.

(5) Save as otherwise provided in sub-section (2), the directors of the Board shall be elected or appointed by the Members in the annual general meeting.

(6) The Board may co-opt one or more expert directors or an additional director not exceeding one-fifth of the total number of directors or appoint any other person as additional director for such period as the Board may deem fit:

Provided that the expert directors shall not have the right to vote in the election of the Chairman but shall be eligible to be elected as Chairman, if so provided by its articles:

Provided further that the maximum period, for which the expert director or the additional director holds office, shall not exceed such period as may be specified in the articles.

378Q. Vacation of office by directors.—(1) The office of the director of a Producer Company shall become vacant if,—

(a) he is convicted by a court of any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months;

(b) the Producer Company, in which he is a director, has made a default in repayment of any advances or loans taken from any company or institution or any other person and such default continues for ninety days;

(c) he has made a default in repayment of any advances or loans taken from the Producer Company in which he is a director;

(d) the Producer Company, in which he is a director—

(i) has not filed the annual accounts and annual return for any continuous three financial years; or

(ii) has failed to, repay its deposit or withheld price or patronage bonus or interest thereon on due date, or pay dividend and such failure continues for one year or more;

(e) default is made in holding election for the office of director, in the Producer Company in which he is a director, in accordance with the provisions of this Act and articles;

(f) the annual general meeting or extraordinary general meeting of the Producer Company, in which he is a director, is not called in accordance with the provisions of this Act except due to natural calamity or such other reason.

(2) The provisions of sub-section (1) shall, as far as may be, apply to the director of a Producer Institution which is a member of a Producer Company.

378R. Powers and functions of Board.—(1) Subject to the provisions of this Act and articles, the Board of Directors of a Producer Company shall exercise all such powers and to do all such acts and things, as that Company is authorised so to do.

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

(a) determination of the dividend payable;

(b) determination of the quantum of withheld price and recommend patronage to be approved at general meeting;

(c) admission of new Members;

(d) pursue and formulate the organisational policy, objectives, establish specific long-term and annual objectives, and approve corporate strategies and financial plans;

(e) appointment of a Chief Executive and such other officers of the Producer Company, as may be specified in the articles;

(f) exercise superintendence, direction and control over Chief Executive and other officers appointed by it;

(g) cause proper books of account to be maintained; prepare annual accounts to be placed before the annual general meeting with the report of the auditor and the replies on qualifications, if any, made by the auditors;

(h) acquisition or disposal of property of the Producer Company in its ordinary course of business;

(i) investment of the funds of the Producer Company in the ordinary course of its business;

(j) sanction any loan or advance, in connection with the business activities of the Producer Company to any Member, not being a director or his relative;

(k) take such other measures or do such other acts as may be required in the discharge of its functions or exercise of its powers.

(3) All the powers specified in sub-sections (1) and (2) shall be exercised by the Board, by means of resolution passed at its meeting on behalf of the Producer Company.

Explanation.—For the removal of doubts, it is hereby declared that a director or a group of directors, who do not constitute the Board, shall not exercise any of the powers exercisable by it.

378S. Matters to be transacted at general meeting.—The Board of Directors of a Producer Company shall exercise the following powers on behalf of that Company, and it shall do so only by means of resolutions passed at the annual general meeting of its Members, namely:—

(a) approval of budget and adoption of annual accounts of the Producer Company;

(b) approval of patronage bonus;

(c) issue of bonus shares;

(d) declaration of limited return and decision on the distribution of patronage;

(e) specify the conditions and limits of loans that may be given by the Board to any director; and

(f) approval of any transaction of the nature as is to be reserved in the articles for approval by the Members.

378T. Liability of directors.—(1) When the directors vote for a resolution, or approve by any other means, anything done in contravention of the provisions of this Act or any other law for the time being in force or articles, they shall be jointly and severally liable to make good any loss or damage suffered by the Producer Company.

(2) Without prejudice to the provisions contained in sub-section (1), the Producer Company shall have the right to recover from its director—

(a) where such director has made any profit as a result of the contravention specified in sub-section (1), an amount equal to the profit so made;

(b) where the Producer Company incurred a loss or damage as a result of the contravention specified in sub-section (1), an amount equal to that loss or damage.

(3) The liability imposed under this section shall be in addition to and not in derogation of a liability imposed on a director under this Act or any other law for the time being in force.

378U. Committee of directors.—(1) The Board may constitute such number of committees as it may deem fit for the purpose of assisting the Board in the efficient discharge of its functions:

Provided that the Board shall not delegate any of its powers or assign the powers of the Chief Executive, to any committee.

(2) A committee constituted under sub-section (1) may, with the approval of the Board, co-opt such number of persons as it deems fit as members of the committee:

Provided that the Chief Executive appointed under section 378W or a director of the Producer Company shall be a member of such committee.

(3) Every such committee shall function under the general superintendence, direction and control of the Board, for such duration, and in such manner as the Board may direct.

(4) The fee and allowances to be paid to the members of the committee shall be such as may be determined by the Board.

(5) The minutes of each meeting of the committee shall be placed before the Board at its next meeting.

378V.Meetings of Board and quorum.—(1) A meeting of the Board shall be held not less than once in every three months and at least four such meetings shall be held in every year.

(2) Notice of every meeting of the Board of Directors shall be given in writing to every director for the time being in India, and at his usual address in India to every other director.

(3) The Chief Executive shall give notice as aforesaid not less than seven days prior to the date of the meeting of the Board and if he fails to do so, he shall be liable to a penalty of five thousand rupees:

Provided that a meeting of the Board may be called at shorter notice and the reasons thereof shall be recorded in writing by the Board.

(4) The quorum for a meeting of the Board shall be one-third of the total strength of directors, subject to a minimum of three.

(5) Save as provided in the articles, directors including the co-opted director, may be paid such fees and allowances for attendance at the meetings of the Board, as may be decided by the Members in the general meeting.

378W. Chief Executive and his functions.—(1) Every Producer Company shall have a full time Chief Executive, by whatever name called, to be appointed by the Board from amongst persons other than Members.

(2) The Chief Executive shall be *ex officio* director of the Board and such director shall not retire by rotation.

(3) Save as otherwise provided in articles, the qualifications, experience and the terms and conditions of service of the Chief Executive shall be such as may be determined by the Board.

(4) The Chief Executive shall be entrusted with substantial powers of management as the Board may determine.

(5) Without prejudice to the generality of sub-section (4), the Chief Executive may exercise the powers and discharge the functions, namely:—

(a) do administrative acts of a routine nature including managing the day-to-day affairs of the Producer Company;

(b) operate bank accounts or authorise any person, subject to the general or special approval of the Board in this behalf, to operate the bank account;

(c) make arrangements for safe custody of cash and other assets of the Producer Company;

(d) sign such documents as may be authorised by the Board, for and on behalf of the company;

(e) maintain proper books of account; prepare annual accounts and audit thereof; place the audited accounts before the Board and in the annual general meeting of the Members;

(f) furnish Members with periodic information to apprise them of the operation and functions of the Producer Company;

(g) make appointments to posts in accordance with the powers delegated to him by the Board;

(h) assist the Board in the formulation of goals, objectives, strategies, plans and policies;

(i) advise the Board with respect to legal and regulatory matters concerning the proposed and ongoing activities and take necessary action in respect thereof;

(j) exercise the powers as may be necessary in the ordinary course of business;

(k) discharge such other functions, and exercise such other powers, as may be delegated by the Board.

(6) The Chief Executive shall manage the affairs of the Producer Company under the general superintendence, direction and control of the Board and be accountable for the performance of the Producer Company.

378X. Secretary of Producer Company.—(1) Every Producer Company having an average annual turnover exceeding five crore rupees or such other amount as may be prescribed in each of three consecutive financial years shall have a whole-time secretary.

(2) No individual shall be appointed as whole-time secretary unless he possesses membership of the Institute of Company Secretaries of India constituted under the Company Secretaries Act, 1980 (56 of 1980).

(3) If a Producer Company fails to comply with the provisions of sub-section (1), the Company and every officer of the Company who is in default, shall be liable to a penalty of one hundred rupees for every day during which the default continues subject to a maximum of rupees one lakh:

Provided that in any proceedings against a person in respect of a default under this sub-section, no penalty shall be imposed if it is shown that all reasonable efforts to comply with the provisions of sub-section (1) were taken or that the financial position of the Company was such that it was beyond its capacity to engage a whole-time secretary.

378Y. Quorum.—Unless the articles require a larger number, one-fourth of the total membership shall constitute the quorum at a general meeting.

378Z. Voting rights.—Save as otherwise provided in sub-sections (1) and (3) of section 378D, every Member shall have one vote and in the case of equality of votes, the Chairman or the person presiding shall have a casting vote except in the case of election of the Chairman.

PART IV GENERAL MEETINGS

37ZA. Annual general meetings.—(1) Every Producer Company shall in each year, hold, in addition to any other meetings, a general meeting, as its annual general meeting and shall specify the meeting as such in the notices calling it, and not more than fifteen months shall elapse between the date of one annual general meeting of a Producer Company and that of the next:

Provided that the Registrar may, for any special reason, permit extension of the time for holding any annual general meeting (not being the first annual general meeting) by a period not exceeding three months.

(2) A Producer Company shall hold its first annual general meeting within a period of ninety days from the date of its incorporation.

(3) The Members shall adopt the articles of the Producer Company and appoint directors of its Board in the annual general meeting.

(4) The notice calling the annual general meeting shall be accompanied by the following documents, namely:—

(a) the agenda of the annual general meeting;

(b) the minutes of the previous annual general meeting or the extraordinary general meeting;

(c) the names of candidates for election, if any, to the office of director including a statement of qualifications in respect of each candidate;

(d) the audited balance-sheet and profit and loss accounts of the Producer Company and its subsidiary, if any, together with a report of the Board of Directors of such Company with respect to—

- (i) the state of affairs of the Producer Company;
 - (ii) the amount proposed to be carried to reserve;
 - (iii) the amount to be paid as limited return on share capital;
 - (iv) the amount proposed to be disbursed as patronage bonus;
 - (v) the material changes and commitments, if any, affecting the financial position of the Producer Company and its subsidiary, which have occurred in between the date of the annual accounts of the Producer Company to which the balance-sheet relates and the date of the report of the Board;
 - (vi) any other matter of importance relating to energy conservation, environmental protection, expenditure or earnings in foreign exchanges;
 - (vii) any other matter which is required to be, or may be, specified by the Board;
- (e) the text of the draft resolution for appointment of auditors;
- (f) the text of any draft resolution proposing amendment to the memorandum or articles to be considered at the general meeting, alongwith the recommendations of the Board.

(5) The Board of Directors shall, on the requisition made in writing, duly signed and setting out the matters for the consideration, made by one-third of the Members entitled to vote in any general meeting, proceed to call an extraordinary general meeting in accordance with the relevant provisions contained in Chapter VII.

(6) Every annual general meeting shall be called, for a time during business hours, on a day that is not a public holiday and shall be held at the registered office of the Producer Company or at some other place within the city, town or village in which the registered office of the Company is situate.

(7) A general meeting of the Producer Company shall be called by giving not less than fourteen days prior notice in writing.

(8) The notice of the general meeting indicating the date, time and place of the meeting shall be sent to every Member and auditor of the Producer Company.

(9) Unless the articles of the Producer Company provide for a larger number, one-fourth of the total number of members of the Producer Company shall be the quorum for its annual general meeting.

(10) The proceedings of every annual general meeting alongwith the report of the Board of Directors, the audited balance-sheet and the profit and loss account shall be filed with the Registrar within sixty days of the date on which the annual general meeting is held, with an annual return alongwith the filing fees as applicable under the Act.

(11) In the case where a Producer Company is formed by Producer Institutions, such Institutions shall be represented in the general body through the Chairman or the Chief Executive thereof who shall be competent to act on its behalf:

Provided that a Producer Institution shall not be represented if such Institution is in default or failure referred to in clauses (d) to (f) of sub-section (1) of section 378Q.

PART V

SHARE CAPITAL AND MEMBERS RIGHTS

378ZB. Share capital.—(1) The share capital of a Producer Company shall consist of equity shares only.

(2) The shares held by a Member in a Producer Company, shall as far as may be, be in proportion to the patronage of that company.

378ZC. Special user rights.—(1) The producers, who are active Members may, if so provided in the articles, have special rights and the Producer Company may issue appropriate instruments to them in respect of such special rights.

(2) The instruments of the Producer Company issued under sub-section (1) shall, after obtaining approval of the Board in that behalf, be transferable to any other active Member of that Producer Company.

Explanation.—For the purposes of this section, the expression “special right” means any right relating to supply of additional produce by the active Member or any other right relating to his produce which may be conferred upon him by the Board.

378ZD. Transferability of shares and attendant rights.—(1) Save as otherwise provided in sub-sections (2) to (4), the shares of a Member of a Producer Company shall not be transferable.

(2) A Member of a Producer Company may, after obtaining the previous approval of the Board, transfer the whole or part of his shares alongwith any special rights, to an active Member at par value.

(3) Every Member shall, within three months of his becoming a Member in the Producer Company, nominate, in the manner specified in articles, a person to whom his shares in the Producer Company shall vest in the event of his death.

(4) The nominee shall, on the death of the Member, become entitled to all the rights in the shares of the Producer Company and the Board of that Company shall transfer the shares of the deceased Member to his nominee:

Provided that in a case where such nominee is not a producer, the Board shall direct the surrender of shares together with special rights, if any, to the Producer Company at par value or such other value as may be determined by the Board.

(5) Where the Board of a Producer Company is satisfied that—

(a) any Member has ceased to be a primary producer; or

(b) any Member has failed to retain his qualifications to be a Member as specified in articles,

the Board shall direct the surrender of shares together with special rights, if any, to the Producer Company at par value or such other value as may be determined by the Board:

Provided that the Board shall not direct such surrender of shares unless the Member has been served with a written notice and given an opportunity of being heard.

PART VI FINANCE, ACCOUNTS AND AUDIT

378ZE. Books of account.—(1) Every Producer Company shall keep at its registered office proper books of account with respect to—

(a) all sums of money received and expended by the Producer Company and the matters in respect of which the receipts and expenditure take place;

(b) all sales and purchase of goods by the Producer Company;

(c) the instruments of liability executed by or on behalf of the Producer Company;

(d) the assets and liabilities of the Producer Company;

(e) in case of a Producer Company engaged in production, processing and manufacturing, the particulars relating to utilisation of materials or labour or other items of costs.

(2) The balance-sheet and profit and loss accounts of the Producer Company shall be prepared, as far as may be, in accordance with the provisions contained in section 129.

378ZF. Internal audit.— Every Producer Company shall have internal audit of its accounts carried out, at such interval and in such manner as may be specified in articles, by a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949).

378ZG. Duties of auditor under this Chapter.—Without prejudice to the provisions contained in section 143, the auditor shall report on the following additional matters relating to the Producer Company, namely:—

- (a) the amount of debts due alongwith particulars of bad debts, if any;
- (b) the verification of cash balance and securities;
- (c) the details of assets and liabilities;
- (d) all transactions which appear to be contrary to the provisions of this Chapter;
- (e) the loans given by the Producer Company to the directors;
- (f) the donations or subscriptions given by the Producer Company;
- (g) any other matter as may be considered necessary by the auditor.

378ZH. Donation or subscription by Producer Company.—A Producer Company may, by special resolution, make donation or subscription to any institution or individual for the purposes of—

- (a) promoting the social and economic welfare of Producer Members or producers or general public; or
- (b) promoting the mutual assistance principles:

Provided that the aggregate amount of all such donations and subscriptions in any financial year shall not exceed three per cent. of the net profit of the Producer Company in the financial year immediately preceding the financial year in which the donation or subscription was made:

Provided further that no Producer Company shall make directly or indirectly to any political party or for any political purpose to any person any contribution or subscription or make available any facilities including personnel or material.

378Z-I. General and other reserves.—(1) Every Producer Company shall maintain a general reserve in every financial year, in addition to any reserve maintained by it as may be specified in articles.

(2) In a case where the Producer Company does not have sufficient funds in any financial year for transfer to maintain the reserves as may be specified in articles, the contribution to the reserve shall be shared amongst the Members in proportion to their patronage in the business of that Company in that year.

378ZJ. Issue of bonus Shares.— Any Producer Company may, upon recommendation of the Board and passing of resolution in the general meeting, issue bonus shares by capitalisation of amounts from general reserves referred to in section 378Z-I in proportion to the shares held by the Members on the date of the issue of such shares.

PART VII

LOANS TO MEMBERS AND INVESTMENTS

378ZK. Loan, etc., to Members.— The Board may, subject to the provisions made in articles, provide financial assistance to the Members of the Producer Company by way of—

- (a) credit facility, to any Member, in connection with the business of the Producer Company, for a period not exceeding six months;
- (b) loans and advances, against security specified in articles to any Member, repayable within a period exceeding three months but not exceeding seven years from the date of disbursement of such loan or advances:

Provided that any loan or advance to any director or his relative shall be granted only after the approval by the Members in general meeting.

378ZL. Investment in other companies, formation of subsidiaries etc.—(1) The general reserves of any Producer Company shall be invested to secure the highest returns available from approved securities, fixed deposits, units, bonds issued by the Government or co-operative or scheduled bank or in such other mode as may be prescribed.

(2) Any Producer Company may, for promotion of its objectives acquire the shares of another Producer Company.

(3) Any Producer Company may subscribe to the share capital of, or enter into any agreement or other arrangement, whether by way of formation of its subsidiary company, joint venture or in any other manner with any body corporate, for the purpose of promoting the objects of the Producer Company by special resolution in this behalf.

(4) Any Producer Company, either by itself or together with its subsidiaries, may invest, by way of subscription, purchase or otherwise, shares in any other company, other than a Producer Company, specified under sub-section (2), or subscription of capital under sub-section (3), for an amount not exceeding thirty per cent. of the aggregate of its paid-up capital and free reserves:

Provided that a Producer Company may, by special resolution passed in its general meeting and with prior approval of the Central Government, invest in excess of the limits specified in this section.

(5) All investments by a Producer Company may be made if such investments are consistent with the objects of the Producer Company.

(6) The Board of a Producer Company may, with the previous approval of Members by a special resolution, dispose of any of its investments referred to in sub-sections (3) and (4).

(7) Every Producer Company shall maintain a register containing particulars of all the investments, showing the names of the companies in which shares have been acquired, number and value of shares; the date of acquisition; and the manner and price at which any of the shares have been subsequently disposed of.

(8) The register referred to in sub-section (7) shall be kept at the registered office of the Producer Company and the same shall be open to inspection by any Member who may take extracts therefrom.

PART VIII

PENALTIES

378ZM. Penalty for contravention.—(1) If any person, other than a Producer Company registered under this Chapter, carries on business under any name which contains the words "Producer Company Limited", he shall be punishable with fine which may extend to ten thousand rupees for every day during which such name has been used by him.

(2) If a director or an officer of a Producer Company, who wilfully fails to furnish any information relating to the affairs of the Producer Company required by a Member or a person duly authorised in this behalf, he shall be liable to imprisonment for a term which may extend to six months and with fine equivalent to five per cent. of the turnover of that Company during the preceding financial year.

(3) If a director or officer of a Producer Company—

(a) fails to hand over the custody of books of account and other documents or property in his custody to the Producer Company of which he is a director or officer; or

(b) fails to convene annual general meeting or other general meetings,

he shall be punishable with fine which may extend to one lakh rupees, and in the case of a continuing default or failure, with an additional fine which may extend to ten thousand rupees for every day during which such default or failure continues.

PART IX

AMALGAMATION, MERGER OR DIVISION

378ZN. Amalgamation merger or division, etc. to form new Producer Companies.—(1) A Producer Company may, by a resolution passed at its general meeting,—

(a) decide to transfer its assets and liabilities, in whole or in part, to any other Producer Company, which agrees to such transfer by a resolution passed at its general meeting, for any of the objects specified in section 378B;

(b) divide itself into two or more new Producer Companies.

(2) Any two or more Producer Companies may, by a resolution passed at any general or special meetings of its Members, decide to—

(a) amalgamate and form a new Producer Company; or

(b) merge one Producer Company (hereafter in this Chapter referred to as "merging company") with another Producer Company (hereafter in this Chapter referred to as "merged company").

(3) Every resolution of a Producer Company under this section shall be passed at its general meeting by a majority of total Members, with right of vote not less than two-thirds of its Members present and voting and such resolution shall contain all particulars of the transfer of assets and liabilities, or division, amalgamation, or merger, as the case may be.

(4) Before passing a resolution under this section, the Producer Company shall give notice thereof in writing together with a copy of the proposed resolution to all the Members and creditors who may give their consent.

(5) Notwithstanding anything contained in articles or in any contract to the contrary, any Member, or any creditor not consenting to the resolution shall, during the period of one month of the date of service of the notice on him, have the option,—

(a) in the case of any such Member, to transfer his shares with the approval of the Board to any active Member thereby ceasing to continue as a Member of that Company; or

(b) in the case of a creditor, to withdraw his deposit or loan or advance, as the case may be.

(6) Any Member or creditor, who does not exercise his option within the period specified in sub-section (5), shall be deemed to have consented to the resolution.

(7) A resolution passed by a Producer Company under this section shall not take effect until the expiry of one month or until the assent thereto of all the Members and creditors has been obtained, whichever is earlier.

(8) The resolution referred to in this section shall provide for—

(a) the regulation of conduct of the affairs of the Producer Company in future;

(b) the purchase of shares or interest of any Members of the Producer Company by other Members or by the Producer Company;

(c) the consequent reduction of its share capital, in case of purchase of shares of one Producer Company by another Producer Company;

(d) termination, setting aside or modification of any agreement, howsoever arrived between the company on the one hand and the directors, secretaries and manager on the other hand, apart from such terms and conditions as may, in the opinion of the majority of shareholders, be just and equitable in the circumstances of the case;

(e) termination, setting aside or modification of any agreement between the Producer Company and any person not referred to in clause (d):

Provided that no such agreement shall be terminated, set aside or modified except after giving due notice to the party concerned:

Provided further that no such agreement shall be modified except after obtaining the consent of the party concerned;

(f) the setting aside of any transfer, delivery of goods, payment, execution or other act relating to property, made or done by or against the Producer Company within three months before the date of passing of the resolution, which would if made or done against any individual, be deemed in his insolvency to be a fraudulent preference;

(g) the transfer to the merged company of the whole or any part of the undertaking, property or liability of the Producer Company;

(h) the allotment or appropriation by the merged company of any shares, debentures, policies, or other like interests in the merged company;

(i) the continuation by or against the merged company of any legal proceedings pending by or against any Producer Company;

(j) the dissolution, without winding up, of any Producer Company;

(k) the provision to be made for the Members or creditors who make dissent;

(l) the taxes, if any, to be paid by the Producer Company;

(m) such incidental, consequential and supplemental matters as are necessary to secure that the division, amalgamation or merger shall be fully and effectively carried out.

(9) When a resolution passed by a Producer Company under this section takes effect, the resolution shall be a sufficient conveyance to vest the assets and liabilities in the transferee.

(10) The Producer Company shall make arrangements for meeting in full or otherwise satisfying all claims of the Members and the creditors who exercise the option, within the period specified in sub-section (4), not to continue as the Member or creditor, as the case may be.

(11) Where the whole of the assets and liabilities of a Producer Company are transferred to another Producer Company in accordance with the provisions of sub-section (9), or where there is merger under sub-section (2), the registration of the first mentioned Company or the merging company, as the case may be, shall stand cancelled and that Company shall be deemed to have been dissolved and shall cease to exist forthwith as a corporate body.

(12) Where two or more Producer Companies are amalgamated into a new Producer Company in accordance with the provisions of sub-section (2) and the Producer Company so formed is duly registered by the Registrar, the registration of each of the amalgamating companies shall stand cancelled forthwith on such registration and each of the Companies shall thereupon cease to exist as a corporate body.

(13) Where a Producer Company divides itself into two or more Producer Companies in accordance with the provisions of clause (b) of sub-section (1) and the new Producer Companies are registered in accordance with the provisions of this Chapter, the registration of the erstwhile Producer Company shall stand cancelled forthwith and that Company shall be deemed to have been dissolved and cease to exist as a corporate body.

(14) The amalgamation, merger or division of companies under the foregoing sub-sections shall not in any manner whatsoever affect the pre-existing rights or obligations and any legal proceedings that might

have been continued or commenced by or against any erstwhile company before the amalgamation, merger or division, may be continued or commenced by, or against, the concerned resulting company, or merged company, as the case may be.

(15) The Registrar shall strike off the names of every Producer Company deemed to have been dissolved under sub-sections (11) to (14).

(16) Any member or creditor or employee aggrieved by the transfer of assets, division, amalgamation or merger may, within thirty days of the passing of the resolution, prefer an appeal to the Tribunal.

(17) The Tribunal shall, after giving a reasonable opportunity to the person concerned, pass such orders thereon as it may deem fit.

(18) Where an appeal has been filed under sub-section (16), the transfer of assets, division, amalgamation or merger of the Producer Company shall be subject to the decision of the Tribunal.

PART X

RESOLUTION OF DISPUTES

378Z-O. Disputes.—(1) Where any dispute relating to the formation, management or business of a Producer Company arises—

(a) amongst Members, former Members or persons claiming to be Members or nominees of deceased Members; or

(b) between a Member, former Member or a person claiming to be a Member, or nominee of deceased Member and the Producer Company, its Board of Directors, office-bearers, or liquidator, past or present; or

(c) between the Producer Company or its Board, and any director, office-bearer or any former director, or the nominee, heir or legal representative of any deceased director of the Producer Company, such dispute shall be settled by conciliation or by arbitration as provided under the Arbitration and Conciliation Act, 1996 (26 of 1996) as if the parties to the dispute have consented in writing for determination of such disputes by conciliation or by arbitration and the provisions of the said Act shall apply accordingly.

Explanation.—For the purposes of this section, a dispute shall include—

(a) a claim for any debt or other amount due;

(b) a claim by surety against the principal debtor, where the Producer Company has recovered from the surety amount in respect of any debtor or other amount due to it from the principal debtor as a result of the default of the principal debtor whether such debt or amount due be admitted or not;

(c) a claim by Producer Company against a Member for failure to supply produce as required of him;

(d) a claim by a Member against the Producer Company for not taking goods supplied by him.

(2) If any question arises whether the dispute relates to formation, management or business of the Producer Company, the question shall be referred to the arbitrator, whose decision thereon shall be final.

PART XI
MISCELLANEOUS PROVISIONS

378ZP. Strike off name of Producer Company.—(1) Where a Producer Company fails to commence business within one year of its registration or ceases to transact business with the Members or if the Registrar is satisfied, after making such inquiry as he thinks fit, that the Producer Company is no longer carrying on any of its objects specified in section 378B, he shall make an order striking off the name of the Producer Company, which shall thereupon cease to exist forthwith:

Provided that no such order cancelling the registration as aforesaid shall be passed until a notice to show cause has been given by the Registrar to the Producer Company with a copy to all its directors on the proposed action and reasonable opportunity to represent its case has been given.

(2) Where the Registrar has reasonable cause to believe that a Producer Company is not maintaining any of the mutual assistance principles specified, he shall strike its name off the register in accordance with the provisions contained in section 248.

(3) Any Member of a Producer Company, who is aggrieved by an order made under sub-section (1), may appeal to the Tribunal within sixty days of the order.

(4) Where an appeal is filed under sub-section (3), the order of striking off the name shall not take effect until the appeal is disposed of.

378ZQ. Provisions of this Chapter to override other laws.—The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in this Act or any other law for the time being in force or any instrument having effect by virtue of any such law; but the provisions of any such Act or law or instrument in so far as the same are not varied by, or are inconsistent with, the provisions of this Chapter shall apply to the Producer Company.

378ZR. Application of provisions relating to private companies.—All the limitations, restrictions and provisions of this Act, other than those specified in this Chapter, applicable to a private company, shall, as far as may be, apply to a Producer Company, as if it is a private limited company under this Act in so far as they are not in conflict with the provisions of this Chapter.

PART XII

RE-CONVERSION OF PRODUCER COMPANY TO INTER-STATE CO-OPERATIVE SOCIETY

378ZS. Re-conversion of Producer Company to inter-State co-operative society.—(1) Any Producer Company, being an erstwhile inter-State co-operative society, formed and registered under this Chapter, may make an application—

(a) after passing a resolution in the general meeting by not less than twothirds of its Members present and voting; or

(b) on request by its creditors representing three-fourths value of its total creditors, to the Tribunal for its re-conversion to the inter-State co-operative society.

(2) The Tribunal shall, on the application made under sub-section (1), direct holding meeting of its Members or such creditors, as the case may be, to be conducted in such manner as it may direct.

(3) If a majority in number representing three-fourths in value of the creditors, or Members, as the case may be, present and voting in person at the meeting conducted in pursuance of the directions of the Tribunal under sub-section (2), agree for re-conversion, if sanctioned by the Tribunal, be binding on all the Members and all the creditors, as the case may be, and also on the company which is being converted:

Provided that no order sanctioning re-conversion shall be made by the Tribunal unless the Tribunal is satisfied that the company or any other person by whom an application has been made under sub-section (1) has disclosed to the Tribunal, by affidavit or otherwise, all material facts relating to the company, such as the latest financial position of the company, the latest report of the auditor on the accounts of the company, the pendency of any investigation proceedings in relation to the company under Chapter XIV, and the like.

(4) An order made by the Tribunal under sub-section (3) shall have no effect until a certified copy of the order has been filed with the Registrar.

(5) A copy of every such order shall be annexed to every copy of the memorandum of the company issued after the certified copy of the order has been filed as aforesaid, or in the case of a company not having a memorandum, to every copy so issued of the instrument constituting or defining the constitution of the company.

(6) If default is made in complying with sub-section (4), the company, and every officer of the company who is in default, shall be punishable with fine which may extend to one hundred rupees, for each copy in respect of which default is made.

(7) The Tribunal may, at any time after an application has been made to it under this section, stay the commencement or continuation of any suit or proceeding against the company on such terms as the Tribunal thinks fit, until the application is finally disposed of.

(8) Every Producer Company, which has been sanctioned re-conversion by the Tribunal, shall make an application under the Multi-State Co-operative Societies Act, 2002 (39 of 2002) or any other law for the time being in force for its registration as multi-State co-operative society or co-operative society, as the case may be, within six months of sanction by the Tribunal and file a report thereof to the Tribunal and the Registrar of Companies and to the Registrar of the Co-operative Societies under which it has been registered as a multi-State co-operative society or co-operative society, as the case may be.

378ZT. Power to modify Act in its application to Producer Companies.—(1) The Central Government may, by notification, direct that any of the provisions of this Act (other than those contained in this Chapter) specified in the said notification—

(a) shall not apply to the Producer Companies or any class or category thereof; or

(b) shall apply to the Producer Companies or any class or category thereof with such exception or adaptation as may be specified in the notification.

(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft 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 or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

378ZU. Power to make rules.—The Central Government may make rules for carrying out the purposes of this Chapter.]

CHAPTER XXII

COMPANIES INCORPORATED OUTSIDE INDIA

379. Application of Act to foreign companies.—¹[(1) Sections 380 to 386 (both inclusive) and sections 392 and 393 shall apply to all foreign companies:

2*

*

*

*

*

³[(2)] Where not less than fifty per cent. of the paid-up share capital, whether equity or preference or partly equity and partly preference, of a foreign company is held by one or more citizens of India or by one or more companies or bodies corporate incorporated in India, or by one or more citizens of India and one or more companies or bodies corporate incorporated in India, whether singly or in the aggregate, such company shall comply with the provisions of this Chapter and such other provisions of this Act as may be prescribed with regard to the business carried on by it in India as if it were a company incorporated in India.

1. Ins. by Act 1 of 2018, s. 77 (w.e.f. 9-2-2018).

2. The Proviso omitted by Act 29 of 2020, s. 53 (w.e.f. 22-1-2021).

3. Section 379 renumbered as sub-section (2) thereof by s. 77, *ibid.* (w.e.f. 9-2-2018).

380. Documents, etc., to be delivered to Registrar by foreign companies.—(1) Every foreign company shall, within thirty days of the establishment of its place of business in India, deliver to the Registrar for registration—

- (a) a certified copy of the charter, statutes or memorandum and articles, of the company or other instrument constituting or defining the constitution of the company and, if the instrument is not in the English language, a certified translation thereof in the English language;
- (b) the full address of the registered or principal office of the company;
- (c) a list of the directors and secretary of the company containing such particulars as may be prescribed;
- (d) the name and address or the names and addresses of one or more persons resident in India authorised to accept on behalf of the company service of process and any notices or other documents required to be served on the company;
- (e) the full address of the office of the company in India which is deemed to be its principal place of business in India;
- (f) particulars of opening and closing of a place of business in India on earlier occasion or occasions;
- (g) declaration that none of the directors of the company or the authorised representative in India has ever been convicted or debarred from formation of companies and management in India or abroad; and
- (h) any other information as may be prescribed.

(2) Every foreign company existing at the commencement of this Act shall, if it has not delivered to the Registrar before such commencement, the documents and particulars specified in sub-section (1) of section 592 of the Companies Act, 1956 (1 of 1956), continue to be subject to the obligation to deliver those documents and particulars in accordance with that Act.

(3) Where any alteration is made or occurs in the documents delivered to the Registrar under this section, the foreign company shall, within thirty days of such alteration, deliver to the Registrar for registration, a return containing the particulars of the alteration in the prescribed form.

381. Accounts of foreign company.—(1) Every foreign company shall, in every calendar year,—

- (a) make out a balance sheet and profit and loss account in such form, containing such particulars and including or having annexed or attached thereto such documents as may be prescribed; and
- (b) deliver a copy of those documents to the Registrar:

Provided that the Central Government may, by notification, direct that, in the case of any foreign company or class of foreign companies, the requirements of clause (a) shall not apply, or shall apply subject to such exceptions and modifications as may be specified in that notification.

(2) If any such document as is mentioned in sub-section (1) is not in the English language, there shall be annexed to it a certified translation thereof in the English language.

(3) Every foreign company shall send to the Registrar along with the documents required to be delivered to him under sub-section (1), a copy of a list in the prescribed form of all places of business established by the company in India as at the date with reference to which the balance sheet referred to in sub-section (1) is made out.

382. Display of name, etc., of foreign company.—Every foreign company shall—

- (a) conspicuously exhibit on the outside of every office or place where it carries on business in India, the name of the company and the country in which it is incorporated, in letters easily legible in English characters, and also in the characters of the language or one of the languages in general use in the locality in which the office or place is situate;

(b) cause the name of the company and of the country in which the company is incorporated, to be stated in legible English characters in all business letters, billheads and letter paper, and in all notices, and other official publications of the company; and

(c) if the liability of the members of the company is limited, cause notice of that fact—

(i) to be stated in every such prospectus issued and in all business letters, bill-heads, letter paper, notices, advertisements and other official publications of the company, in legible English characters; and

(ii) to be conspicuously exhibited on the outside of every office or place where it carries on business in India, in legible English characters and also in legible characters of the language or one of the languages in general use in the locality in which the office or place is situate.

383. Service on foreign company.—Any process, notice, or other document required to be served on a foreign company shall be deemed to be sufficiently served, if addressed to any person whose name and address have been delivered to the Registrar under section 380 and left at, or sent by post to, the address which has been so delivered to the Registrar or by electronic mode.

384. Debentures, annual return, registration of charges, books of account and their inspection.—

(1) The provisions of section 71 shall apply *mutatis mutandis* to a foreign company.

(2) The provisions of section 92¹ [and section 135] shall, subject to such exceptions, modifications and adaptations as may be made therein by rules made under this Act, apply to a foreign company as they apply to a company incorporated in India.

(3) The provisions of section 128 shall apply to a foreign company to the extent of requiring it to keep at its principal place of business in India, the books of account referred to in that section, with respect to monies received and spent, sales and purchases made, and assets and liabilities, in the course of or in relation to its business in India.

(4) The provisions of Chapter VI shall apply *mutatis mutandis* to charges on properties which are created or acquired by any foreign company.

(5) The provisions of Chapter XIV shall apply *mutatis mutandis* to the Indian business of a foreign company as they apply to a company incorporated in India.

385. Fee for registration of documents.—There shall be paid to the Registrar for registering any document required by the provisions of this Chapter to be registered by him, such fee, as may be prescribed.

386. Interpretation.—For the purposes of the foregoing provisions of this Chapter,—

(a) the expression “certified” means certified in the prescribed manner to be a true copy or a correct translation;

(b) the expression “director”, in relation to a foreign company, includes any person in accordance with whose directions or instructions the Board of Directors of the company is accustomed to act; and

(c) the expression “place of business” includes a share transfer or registration office.

387. Dating of prospectus and particulars to be contained therein.—(1) No person shall issue, circulate or distribute in India any prospectus offering to subscribe for securities of a company incorporated or to be incorporated outside India, whether the company has or has not established, or when formed will or will not establish, a place of business in India, unless the prospectus is dated and signed, and—

(a) contains particulars with respect to the following matters, namely:—

(i) the instrument constituting or defining the constitution of the company;

(ii) the enactments or provisions by or under which the incorporation of the company was effected;

1. Ins. by Act 1 of 2018, s. 78 (w.e.f. 9-2-2018).

(iii) address in India where the said instrument, enactments or provisions, or copies thereof, and if the same are not in the English language, a certified translation thereof in the English language can be inspected;

(iv) the date on which and the country in which the company would be or was incorporated; and

(v) whether the company has established a place of business in India and, if so, the address of its principal office in India; and

(b) states the matters specified under section 26:

Provided that sub-clauses (i), (ii) and (iii) of clause (a) of this sub-section shall not apply in the case of a prospectus issued more than two years after the date at which the company is entitled to commence business.

(2) Any condition requiring or binding an applicant for securities to waive compliance with any requirement imposed by virtue of sub-section (1), or purporting to impute him with notice of any contract, documents or matter not specifically referred to in the prospectus, shall be void.

(3) No person shall issue to any person in India a form of application for securities of such a company or intended company as is mentioned in sub-section (1), unless the form is issued with a prospectus which complies with the provisions of this Chapter and such issue does not contravene the provisions of section 388:

Provided that this sub-section shall not apply if it is shown that the form of application was issued in connection with a *bona fide* invitation to a person to enter into an underwriting agreement with respect to securities.

(4) This section —

(a) shall not apply to the issue to existing members or debenture holders of a company of a prospectus or form of application relating to securities of the company, whether an applicant for securities will or will not have the right to renounce in favour of other persons; and

(b) except in so far as it requires a prospectus to be dated, to the issue of a prospectus relating to securities which are or are to be in all respects uniform with securities previously issued and for the time being dealt in or quoted on a recognised stock exchange,

but, subject as aforesaid, this section shall apply to a prospectus or form of application whether issued on or with reference to the formation of a company or subsequently.

(5) Nothing in this section shall limit or diminish any liability which any person may incur under any law for the time being in force in India or under this Act apart from this section.

388. Provisions as to expert's consent and allotment.—(1) No person shall issue, circulate or distribute in India any prospectus offering for subscription in securities of a company incorporated or to be incorporated outside India, whether the company has or has not been established, or when formed will or will not establish, a place of business in India,—

(a) if, where the prospectus includes a statement purporting to be made by an expert, he has not given, or has before delivery of the prospectus for registration withdrawn, his written consent to the issue of the prospectus with the statement included in the form and context in which it is included, or there does not appear in the prospectus a statement that he has given and has not withdrawn his consent as aforesaid; or

(b) if the prospectus does not have the effect, where an application is made in pursuance thereof, of rendering all persons concerned bound by all the provisions of sections 33 and 40, so far as applicable.

(2) For the purposes of this section, a statement shall be deemed to be included in a prospectus, if it is contained in any report or memorandum appearing on the face thereof or by reference incorporated therein or issued therewith.

389. Registration of prospectus.—No person shall issue, circulate or distribute in India any prospectus offering for subscription in securities of a company incorporated or to be incorporated outside India, whether the company has or has not established, or when formed will or will not establish, a place of business in India, unless before the issue, circulation or distribution of the prospectus in India, a copy thereof certified by the chairperson of the company and two other directors of the company as having been approved by resolution of the managing body has been delivered for registration to the Registrar and the prospectus states on the face of it that a copy has been so delivered, and there is endorsed on or attached to the copy, any consent to the issue of the prospectus required by section 388 and such documents as may be prescribed.

390. Offer of Indian Depository Receipts.—Notwithstanding anything contained in any other law for the time being in force, the Central Government may make rules applicable for—

(a) the offer of Indian Depository Receipts;

(b) the requirement of disclosures in prospectus or letter of offer issued in connection with Indian Depository Receipts;

(c) the manner in which the Indian Depository Receipts shall be dealt with in a depository mode and by custodian and underwriters; and

(d) the manner of sale, transfer or transmission of Indian Depository Receipts,

by a company incorporated or to be incorporated outside India, whether the company has or has not established, or will or will not establish, any place of business in India.

391. Application of sections 34 to 36 and Chapter XX.—(1) The provisions of sections 34 to 36 (both inclusive) shall apply to—

(i) the issue of a prospectus by a company incorporated outside India under section 389 as they apply to prospectus issued by an Indian company;

(ii) the issue of Indian Depository Receipts by a foreign company.

¹[(2) Subject to the provisions of section 376, the provisions of Chapter XX shall apply *mutatis mutandis* for closure of the place of business of a foreign company in India as if it were a company incorporated in India in case such foreign company has raised monies through offer or issue of securities under this Chapter which have not been repaid or redeemed.]

392. Punishment for contravention.—Without prejudice to the provisions of section 391, if a foreign company contravenes the provisions of this Chapter, the foreign company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees and in the case of a continuing offence, with an additional fine which may extend to fifty thousand rupees for every day after the first during which the contravention continues and every officer of the foreign company who is in default shall be punishable ^{2***} with fine which shall not be less than twenty-five thousand rupees but which may extend to ³[five lakh rupees].

393. Company's failure to comply with provisions of this Chapter not to affect validity of contracts, etc.—Any failure by a company to comply with the provisions of this Chapter shall not affect the validity of any contract, dealing or transaction entered into by the company or its liability to be sued in respect thereof, but the company shall not be entitled to bring any suit, claim any set-off, make any counter-claim or institute any legal proceeding in respect of any such contract, dealing or transaction, until the company has complied with the provisions of this Act applicable to it.

⁴[**393A. Exemptions under this Chapter.**—The Central Government may, by notification, exempt any class of—

(a) foreign companies;

1. Subs. by Act 1 of 2018, s. 79, for sub-section (2) (w.e.f. 9-2-2018).

2. The words "with imprisonment for a term which may extend to six months or" omitted by Act 29 of 2020, s. 54 (w.e.f. 21-12-2020).

3. Subs. by s. 54, *ibid.*, for "fifty thousand rupees, or with both" (w.e.f. 21-12-2020).

4. Ins. by s. 55, *ibid.* (w.e.f. 22-1-2021).

(b) companies incorporated or to be incorporated outside India, whether the company has or has not established, or when formed may or may not establish, a place of business in India,
as may be specified in the notification, from any of the provisions of this Chapter and a copy of every such notification shall, as soon as may be after it is made, be laid before both Houses of Parliament.]

CHAPTER XXIII

GOVERNMENT COMPANIES

394. Annual reports on Government companies.—(1) Where the Central Government is a member of a Government company, the Central Government shall cause an annual report on the working and affairs of that company to be—

(a) prepared within three months of its annual general meeting before which the comments given by the Comptroller and Auditor-General of India and the audit report is placed under the proviso to sub-section (6) of section 143; and

(b) as soon as may be after such preparation, laid before both Houses of Parliament together with a copy of the audit report and comments upon or supplement to the audit report, made by the Comptroller and Auditor-General of India.

(2) Where in addition to the Central Government, any State Government is also a member of a Government company, that State Government shall cause a copy of the annual report prepared under sub-section (1) to be laid before the House or both Houses of the State Legislature together with a copy of the audit report and the comments upon or supplement to the audit report referred to in sub-section (1).

395. Annual reports where one or more State Governments are members of companies.—(1) Where the Central Government is not a member of a Government company, every State Government which is a member of that company, or where only one State Government is a member of the company, that State Government shall cause an annual report on the working and affairs of the company to be—

(a) prepared within the time specified in sub-section (1) of section 394; and

(b) as soon as may be after such preparation, laid before the House or both Houses of the State Legislature together with a copy of the audit report and comments upon or supplement to the audit report referred to in sub-section (1) of that section.

(2) The provisions of this section and section 394 shall, so far as may be, apply to a Government company in liquidation as they apply to any other Government company.

CHAPTER XXIV

REGISTRATION OFFICES AND FEES

396. Registration offices.—(1) For the purposes of exercising such powers and discharging such functions as are conferred on the Central Government by or under this Act or under the rules made there under and for the purposes of registration of companies under this Act, the Central Government shall, by notification, establish such number of offices at such places as it thinks fit, specifying their jurisdiction.

(2) The Central Government may appoint such Registrars, Additional, Joint, Deputy and Assistant Registrars as it considers necessary for the registration of companies and discharge of various functions under this Act, and the powers and duties that may be exercisable by such officers shall be such as may be prescribed.

(3) The terms and conditions of service, including the salaries payable to persons appointed under sub-section (2), shall be such as may be prescribed.

(4) The Central Government may direct a seal or seals to be prepared for the authentication of documents required for, or connected with, the registration of companies.

397. Admissibility of certain documents as evidence.—Notwithstanding anything contained in any other law for the time being in force, any document reproducing or derived from returns and documents filed by a company with the Registrar on paper or in electronic form or stored on any electronic data storage device or computer readable media by the Registrar, and authenticated by the Registrar or any other officer empowered by the Central Government in such manner as may be prescribed, shall be deemed to be a document for the purposes of this Act and the rules made thereunder and shall be admissible in any proceedings thereunder without further proof or production of the original as evidence of any contents of the original or of any fact stated therein of which direct evidence is admissible.

398. Provisions relating to filing of applications, documents, inspection, etc., in electronic form.—

(1) Notwithstanding anything to the contrary contained in this Act, and without prejudice to the provisions contained in section 6 of the Information Technology Act, 2000 (21 of 2000), the Central Government may make rules so as to require from such date as may be prescribed in the rules that—

(a) such applications, balance sheet, prospectus, return, declaration, memorandum, articles, particulars of charges, or any other particulars or document as may be required to be filed or delivered under this Act or the rules made thereunder, shall be filed in the electronic form and authenticated in such manner as may be prescribed;

(b) such document, notice, any communication or intimation, as may be required to be served or delivered under this Act, in the electronic form and authenticated in such manner as may be prescribed;

(c) such applications, balance sheet, prospectus, return, register, memorandum, articles, particulars of charges, or any other particulars or document and return filed under this Act or rules made thereunder shall be maintained by the Registrar in the electronic form and registered or authenticated, as the case may be, in such manner as may be prescribed;

(d) such inspection of the memorandum, articles, register, index, balance sheet, return or any other particulars or document maintained in the electronic form, as is otherwise available for inspection under this Act or the rules made thereunder, may be made by any person through the electronic form in such manner as may be prescribed;

(e) such fees, charges or other sums payable under this Act or the rules made thereunder shall be paid through the electronic form and in such manner as may be prescribed; and

(f) the Registrar shall register change of registered office, alteration of memorandum or articles,^{1***} issue certificate of incorporation, register such document, issue such certificate, record the notice, receive such communication as may be required to be registered or issued or recorded or received, as the case may be, under this Act or the rules made thereunder or perform duties or discharge functions or exercise powers under this Act or the rules made thereunder or do any act which is by this Act

1. The word “prospectus” omitted by Act 22 of 2019, s. 38 (w.e.f. 15-8-2019).

directed to be performed or discharged or exercised or done by the Registrar in the electronic form in such manner as may be prescribed.

Explanation.—For the removal of doubts, it is hereby clarified that the rules made under this section shall not relate to imposition of fines or other pecuniary penalties or demand or payment of fees or contravention of any of the provisions of this Act or punishment therefor.

(2) The Central Government may, by notification, frame a scheme to carry out the provisions of sub-section (1) through the electronic form.

399. Inspection, production and evidence of documents kept by Registrar.—(1) Save as otherwise provided elsewhere in this Act, any person may—

(a) inspect by electronic means any documents kept by the Registrar in accordance with the rules made, being documents filed or registered by him in pursuance of this Act, or making a record of any fact required or authorised to be recorded or registered in pursuance of this Act, on payment for each inspection of such fees as may be prescribed;

(b) require a certificate of the incorporation of any company, or a copy or extract of any other document or any part of any other document to be certified by the Registrar, on payment in advance of such fees as may be prescribed:

Provided that the rights conferred by this sub-section shall be exercisable—

(i) in relation to documents delivered to the Registrar with a prospectus in pursuance of section 26, only during the fourteen days beginning with the date of publication of the prospectus; and at other times, only with the permission of the Central Government; and

(ii) in relation to documents so delivered in pursuance of clause (b) of sub-section (1) of section 388, only during the fourteen days beginning with the date of the prospectus; and at other times, only with the permission of the Central Government.

(2) No process for compelling the production of any document kept by the Registrar shall issue from any court or the Tribunal except with the leave of that court or the Tribunal and any such process, if issued, shall bear thereon a statement that it is issued with the leave of the court or the Tribunal.

(3) A copy of, or extract from, any document kept and registered at any of the offices for the registration of companies under this Act, certified to be a true copy by the Registrar (whose official position it shall not be necessary to prove), shall, in all legal proceedings, be admissible in evidence as of equal validity with the original document.

400. Electronic form to be exclusive, alternative or in addition to physical form.—The Central Government may also provide in the rules made under section 398 and section 399 that the electronic form for the purposes specified in these sections shall be exclusive, or in the alternative or in addition to the physical form, therefor.

401. Provision of value added services through electronic form.—The Central Government may provide such value added services through the electronic form and levy such fee thereon as may be prescribed.

402. Application of provisions of Information Technology Act, 2000.—All the provisions of the Information Technology Act, 2000 (21 of 2000) relating to the electronic records, including the manner and format in which the electronic records shall be filed, in so far as they are not inconsistent with this Act, shall apply in relation to the records in electronic form specified under section 398.

403. Fee for filing, etc.—(1) Any document, required to be submitted, filed, registered or recorded, or any fact or information required or authorised to be registered under this Act, shall be submitted, filed, registered or recorded within the time specified in the relevant provision on payment of such fee as may be prescribed:

¹[Provided that where any document, fact or information required to be submitted, filed, registered or recorded, as the case may be, under section 92 or 137 is not submitted, filed, registered or recorded, as the case may be, within the period provided in those sections, without prejudice to any other legal action or liability under this Act, it may be submitted, filed, registered or recorded, as the case may be, after expiry of the period so provided in those sections, on payment of such additional fee as may be prescribed, which shall not be less than one hundred rupees per day and different amounts may be prescribed for different classes of companies:]

²[Provided further that where the document, fact or information, as the case may be, in cases other than referred to in the first proviso, is not submitted, filed, registered or recorded, as the case may be, within the period provided in the relevant section, it may, without prejudice to any other legal action or liability under this Act, be submitted, filed, registered or recorded as the case may be, on payment of such additional fee as may be prescribed and different fees may be prescribed for different classes of companies:

³[Provided also that where there is default on two or more occasions in submitting, filing, registering or recording of such document, fact or information, as may be prescribed, it may, without prejudice to any other legal action or liability under this Act, be submitted, filed, registered or recorded, as the case may be, on payment of such higher additional fee, as may be prescribed.]]

⁴[(2) Where a company fails or commits any default to submit, file, register or record any document, fact or information under sub-section (1) before the expiry of the period specified in the relevant section, the company and the officers of the company who are in default, shall, without prejudice to the liability for the payment of fee and additional fee, be liable for the penalty or punishment provided under this Act for such failure or default.]

404. Fees, etc., to be credited into public account.—All fees, charges and other sums received by any Registrar, Additional, Joint, Deputy or Assistant Registrar or any other officer of the Central Government in pursuance of any provision of this Act shall be paid into the public account of India in the Reserve Bank of India.

CHAPTER XXV

COMPANIES TO FURNISH INFORMATION OR STATISTICS

405. Power of Central Government to direct companies to furnish information or statistics.—(1) The Central Government may, by order, require companies generally, or any class of companies, or any company, to furnish such information or statistics with regard to their or its constitution or working, and within such time, as may be specified in the order.

(2) Every order under sub-section (1) shall be published in the Official Gazette and may be addressed to companies generally or to any class of companies, in such manner, as the Central Government may think fit and the date of such publication shall be deemed to be the date on which requirement for information or statistics is made on such companies or class of companies, as the case may be.

1. Subs. by Act 1 of 2018, s. 80, for the first proviso (w.e.f. 7-5-2018).

2. Subs. by, s. 80, *ibid*, for second and third proviso (w.e.f. 1-7-2022).

3. Subs. by Act 29 of 2020, s. 56, for the third proviso (w.e.f. 1-7-2022).

4. Subs. by Act 1 of 2018, s. 80, for sub-section (2) (w.e.f. 7-5-2018).

(3) For the purpose of satisfying itself that any information or statistics furnished by a company or companies in pursuance of any order under sub-section (1) is correct and complete, the Central Government may by order require such company or companies to produce such records or documents in its possession or allow inspection thereof by such officer or furnish such further information as that Government may consider necessary.

¹[(4) If any company fails to comply with an order made under sub-section (1) or sub-section (3), or furnishes any information or statistics which is incorrect or incomplete in any material respect, the company and every officer of the company who is in default, shall be liable to a penalty of twenty thousand rupees and in case of continuing failure, with a further penalty of one thousand rupees for each day after the first during which such failure continues, subject to a maximum of three lakh rupees.]

(5) Where a foreign company carries on business in India, all references to a company in this section shall be deemed to include references to the foreign company in relation, and only in relation, to such business.

CHAPTER XXVI

NIDHIS

²[**406. Provision relating to *Nidhis* and its application, etc.**—(1) In this section, “*Nidhi*” or “Mutual Benefit Society” means a company which the Central Government may, by notification in the Official Gazette, declare to be a *Nidhi* or Mutual Benefit Society, as the case may be.

(2) The Central Government may, by notification in the Official Gazette, direct that any of the provisions of this Act specified in the notification—

(a) shall not apply to any *Nidhi* or Mutual Benefit Society; or

(b) shall apply to any *Nidhi* or Mutual Benefit Society with such exceptions, modifications and adaptations as may be specified in the notification.

(3) A copy of every notification proposed to be issued under sub-section (2), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days, and if, both Houses agree in disapproving the issue of notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

(4) In reckoning any such period of thirty days as is referred to in sub-section (3), no account shall be taken of any period during which the House referred to in sub-section (3) is prorogued or adjourned for more than four consecutive days.

(5) The copies of every notification issued under this section shall, as soon as may be after it has been issued, be laid before each House of Parliament.]

1. Subs. by Act 29 of 2020, s. 57, for sub-section (4) (w.e.f. 21-12-2020).

2. Subs. by Act 1 of 2018, s. 81, for section 406 (w.e.f. 15-8-2019).

CHAPTER XXVII

NATIONAL COMPANY LAW TRIBUNAL AND APPELLATE TRIBUNAL

407. Definitions.—In this Chapter, unless the context otherwise requires,—

(a) “Chairperson” means the Chairperson of the Appellate Tribunal;

(b) “Judicial Member” means a member of the Tribunal or the Appellate Tribunal appointed as such and includes the President or the Chairperson, as the case may be;

(c) “Member” means a member, whether Judicial or Technical of the Tribunal or the Appellate Tribunal and includes the President or the Chairperson, as the case may be;

(d) “President” means the President of the Tribunal;

(e) “Technical Member” means a member of the Tribunal or the Appellate Tribunal appointed as such.

408. Constitution of National Company Law Tribunal.—The Central Government shall, by notification, constitute, with effect from such date as may be specified therein, a Tribunal to be known as the National Company Law Tribunal consisting of a President and such number of Judicial and Technical members, as the Central Government may deem necessary, to be appointed by it by notification, to exercise and discharge such powers and functions as are, or may be, conferred on it by or under this Act or any other law for the time being in force.

409. Qualification of President and Members of Tribunal.—(1) The President shall be a person who is or has been a Judge of a High Court for five years.

(2) A person shall not be qualified for appointment as a Judicial Member unless he—

(a) is, or has been, a judge of a High Court; or

(b) is, or has been, a District Judge for at least five years; or

(c) has, for at least ten years been an advocate of a court.

Explanation.—For the purposes of clause (c), in computing the period during which a person has been an advocate of a court, there shall be included any period during which the person has held judicial office or the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law after he become an advocate.

(3) A person shall not be qualified for appointment as a Technical Member unless he—

(a) has, for at least fifteen years been a member of the Indian Corporate Law Service or Indian Legal Service ¹[and has been holding the rank of Secretary or Additional Secretary to the Government of India]; or

(b) is, or has been, in practice as a chartered accountant for at least fifteen years; or

(c) is, or has been, in practice as a cost accountant for at least fifteen years; or

(d) is, or has been, in practice as a company secretary for at least fifteen years; or

²[(e) is a person of proven ability, integrity and standing having special knowledge and professional experience of not less than fifteen years in industrial finance, industrial management, industrial reconstruction, investment and accountancy.]

(f) is, or has been, for at least five years, a presiding officer of a Labour Court, Tribunal or National Tribunal constituted under the Industrial Disputes Act, 1947 (14 of 1947).

410. Constitution of Appellate Tribunal.—The Central Government shall, by notification, constitute, with effect from such date as may be specified therein, an Appellate Tribunal to be known as the National Company Law Appellate Tribunal consisting of a chairperson and such number of Judicial and Technical

1. Subs. by Act 1 of 2018, s. 82, for “out of which at least three years shall be in the pay scale of Joint Secretary to the Government of India or equivalent or above in that service” (w.e.f. 9-2-2018).

2. Subs. by Act 1 of 2018, s. 82, for clause (e) (w.e.f. 9-2-2018).

Members,^{1***}, as the Central Government may deem fit, to be appointed by it by notification,²[for hearing appeals against—

- (a) the³[orders of the Tribunal or of the National Financial Reporting Authority] under this Act; and
- (b) any direction, decision or order referred to in⁴[section 53A] of the Competition Act, 2002 (12 of 2002) in accordance with the provisions of that Act].

411. Qualifications of chairperson and Members of Appellate Tribunal.—(1) The chairperson shall be a person who is or has been a Judge of the Supreme Court or the Chief Justice of a High Court.

(2) A Judicial Member shall be a person who is or has been a Judge of a High Court or is a Judicial Member of the Tribunal for five years.

⁵[(3) A technical member shall be a person of proven ability, integrity and standing having special knowledge and professional experience of not less than twenty-five years in industrial finance, industrial management, industrial reconstruction, investment and accountancy.]

412. Selection of Members of Tribunal and Appellate Tribunal.—(1) The President of the Tribunal and the chairperson and Judicial Members of the Appellate Tribunal, shall be appointed after consultation with the Chief Justice of India.

⁶[(2) The Members of the Tribunal and the Technical Members of the Appellate Tribunal shall be appointed on the recommendation of a Selection Committee consisting of—

- (a) Chief Justice of India or his nominee—Chairperson;
- (b) a senior Judge of the Supreme Court or Chief Justice of High Court—Member;
- (c) Secretary in the Ministry of Corporate Affairs—Member; and
- (d) Secretary in the Ministry of Law and Justice—Member.

(2A) Where in a meeting of the Selection Committee, there is equality of votes on any matter, the Chairperson shall have a casting vote.]

(3) The Secretary, Ministry of Corporate Affairs shall be the Convener of the Selection Committee.

(4) The Selection Committee shall determine its procedure for recommending persons under sub-section (2).

(5) No appointment of the Members of the Tribunal or the Appellate Tribunal shall be invalid merely by reason of any vacancy or any defect in the constitution of the Selection Committee.

413. Term of office of President, chairperson and other Members.—(1) The President and every other Member of the Tribunal shall hold office as such for a term of five years from the date on which he enters upon his office, but shall be eligible for re-appointment for another term of five years.

(2) A Member of the Tribunal shall hold office as such until he attains,—

- (a) in the case of the President, the age of sixty-seven years;
- (b) in the case of any other Member, the age of sixty-five years:

Provided that a person who has not completed fifty years of age shall not be eligible for appointment as Member:

Provided further that the Member may retain his lien with his parent cadre or Ministry or Department, as the case may be, while holding office as such for a period not exceeding one year.

1. The words “not exceeding eleven” omitted by Act 29 of 2020, s. 58 (w.e.f. 22-1-2021).

2. Subs. by Act 7 of 2017, s. 172, for “for hearing appeals against the orders to the Tribunal” (w.e.f. 26-5-2017).

3. Subs. by Act 1 of 2018, s. 83 for “orders of the Tribunal” (w.e.f. 7-5-2018).

4. Subs. by Act 29 of 2020, s. 58, for “section 53N” (w.e.f. 22-1-2021).

5. Subs. by Act 1 of 2018, s. 84, for sub-section (3) (w.e.f. 9-2-2018).

6. Subs. by s. 85, *ibid.*, for sub-section (2) (w.e.f. 9-2-2018).

(3) The chairperson or a Member of the Appellate Tribunal shall hold office as such for a term of five years from the date on which he enters upon his office, but shall be eligible for re-appointment for another term of five years.

(4) A Member of the Appellate Tribunal shall hold office as such until he attains,—

(a) in the case of the Chairperson, the age of seventy years;

(b) in the case of any other Member, the age of sixty-seven years:

Provided that a person who has not completed fifty years of age shall not be eligible for appointment as Member:

Provided further that the Member may retain his lien with his parent cadre or Ministry or Department, as the case may be, while holding office as such for a period not exceeding one year.

414. Salary, allowances and other terms and conditions of service of Members.—The salary, allowances and other terms and conditions of service of the Members of the Tribunal and the Appellate Tribunal shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Members shall be varied to their disadvantage after their appointment.

415. Acting President and Chairperson of Tribunal or Appellate Tribunal.—(1) In the event of the occurrence of any vacancy in the office of the President or the Chairperson by reason of his death, resignation or otherwise, the senior-most Member shall act as the President or the Chairperson, as the case may be, until the date on which a new President or Chairperson appointed in accordance with the provisions of this Act to fill such vacancy enters upon his office.

(2) When the President or the Chairperson is unable to discharge his functions owing to absence, illness or any other cause, the senior-most Member shall discharge the functions of the President or the Chairperson, as the case may be, until the date on which the President or the Chairperson resumes his duties.

416. Resignation of Members.—The President, the Chairperson or any Member may, by notice in writing under his hand addressed to the Central Government, resign from his office:

Provided that the President, the Chairperson, or the Member shall continue to hold office until the expiry of three months from the date of receipt of such notice by the Central Government or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is earliest.

417. Removal of Members.—(1) The Central Government may, after consultation with the Chief Justice of India, remove from office the President, Chairperson or any Member, who—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as such President, the Chairperson, or Member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as such President, the Chairperson or Member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest:

Provided that the President, the Chairperson or the Member shall not be removed on any of the grounds specified in clauses (b) to (e) without giving him a reasonable opportunity of being heard.

(2) Without prejudice to the provisions of sub-section (1), the President, the Chairperson or the Member shall not be removed from his office except by an order made by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court nominated by the Chief Justice of India on a reference made to him by the Central Government in which such President,

the Chairperson or Member had been informed of the charges against him and given a reasonable opportunity of being heard.

(3) The Central Government may, with the concurrence of the Chief Justice of India, suspend from office, the President, the Chairperson or Member in respect of whom reference has been made to the Judge of the Supreme Court under sub-section (2) until the Central Government has passed orders on receipt of the report of the Judge of the Supreme Court on such reference.

(4) The Central Government shall, after consultation with the Supreme Court, make rules to regulate the procedure for the inquiry on the ground of proved misbehaviour or incapacity referred to in sub-section (2).

¹[**417A. Qualifications, terms and conditions of service of Chairperson and Member.**—Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal appointed after the commencement of ²[the Tribunals Reforms Act, 2021, shall be governed by the provisions of Chapter II of the said Act]:

Provided that the Chairperson and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.]

418. Staff of Tribunal and Appellate Tribunal.—(1) The Central Government shall, in consultation with the Tribunal and the Appellate Tribunal, provide the Tribunal and the Appellate Tribunal, as the case may be, with such officers and other employees as may be necessary for the exercise of the powers and discharge of the functions of the Tribunal and the Appellate Tribunal.

(2) The officers and other employees of the Tribunal and the Appellate Tribunal shall discharge their functions under the general superintendence and control of the President, or as the case may be, the Chairperson, or any other Member to whom powers for exercising such superintendence and control are delegated by him.

(3) The salaries and allowances and other conditions of service of the officers and other employees of the Tribunal and the Appellate Tribunal shall be such as may be prescribed.

³[**418A. Benches of Appellate Tribunal.**—(1) The powers of the Appellate Tribunal may be exercised by the Benches thereof to be constituted by the Chairperson:

Provided that a Bench of the Appellate Tribunal shall have at least one Judicial Member and one Technical Member.

(2) The Benches of the Appellate Tribunal shall ordinarily sit at New Delhi or such other places as the Central Government may, in consultation with the Chairperson, notify:

Provided that the Central Government may, by notification, after consultation with the Chairperson, establish such number of Benches of the Appellate Tribunal, as it may consider necessary, to hear appeals against any direction, decision or order referred to in section 53A of the Competition Act, 2002 (12 of 2003) and under section 61 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016).]

419. Benches of Tribunal.—(1) There shall be constituted such number of Benches of the Tribunal, as may, by notification, be specified by the Central Government.

(2) The Principal Bench of the Tribunal shall be at New Delhi which shall be presided over by the President of the Tribunal.

(3) The powers of the Tribunal shall be exercisable by Benches consisting of two Members out of whom one shall be a Judicial Member and the other shall be a Technical Member:

1. Ins. by Act 7 of 2017, s. 172 (w.e.f. 26-5-2017).

2. Subs. by Act 33 of 2021, s. 28, for “Part XIV of Chapter VI of the Finance Act, 2017 (7 of 2017), shall be governed by the provisions of the section 184 of that Act” (w.e.f. 4-4-2021).

3. Ins. by Act 29 of 2020, s. 59 (w.e.f. 22-1-2021).

Provided that it shall be competent for the Members of the Tribunal authorised in this behalf to function as a Bench consisting of a single Judicial Member and exercise the powers of the Tribunal in respect of such class of cases or such matters pertaining to such class of cases, as the President may, by general or special order, specify:

Provided further that if at any stage of the hearing of any such case or matter, it appears to the Member that the case or matter is of such a nature that it ought to be heard by a Bench consisting of two Members, the case or matter may be transferred by the President, or, as the case may be, referred to him for transfer, to such Bench as the President may deem fit.

¹[(4) The Central Government shall, by notification, establish such number of benches of the Tribunal, as it may consider necessary, to exercise the jurisdiction, powers and authority of the Adjudicating Authority conferred on such Tribunal by or under Part II of the Insolvency and Bankruptcy Code, 2016 (31 of 2016).]

(5) If the Members of a Bench differ in opinion on any point or points, it shall be decided according to the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President for hearing on such point or points by one or more of the other Members of the Tribunal and such point or points shall be decided according to the opinion of the majority of Members who have heard the case, including those who first heard it.

420. Orders of Tribunal.—(1) The Tribunal may, after giving the parties to any proceeding before it, a reasonable opportunity of being heard, pass such orders thereon as it thinks fit.

(2) The Tribunal may, at any time within two years from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it, and shall make such amendment, if the mistake is brought to its notice by the parties:

Provided that no such amendment shall be made in respect of any order against which an appeal has been preferred under this Act.

(3) The Tribunal shall send a copy of every order passed under this section to all the parties concerned.

421. Appeal from orders of Tribunal.—(1) Any person aggrieved by an order of the Tribunal may prefer an appeal to the Appellate Tribunal.

(2) No appeal shall lie to the Appellate Tribunal from an order made by the Tribunal with the consent of parties.

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order of the Tribunal is made available to the person aggrieved and shall be in such form, and accompanied by such fees, as may be prescribed:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days from the date aforesaid, but within a further period not exceeding forty-five days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within that period.

(4) On the receipt of an appeal under sub-section (1), the Appellate Tribunal shall, after giving the parties to the appeal a reasonable opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The Appellate Tribunal shall send a copy of every order made by it to the Tribunal and the parties to appeal.

422. Expedited disposal by Tribunal and Appellate Tribunal.—(1) Every application or petition presented before the Tribunal and every appeal filed before the Appellate Tribunal shall be dealt with and disposed of by it as expeditiously as possible and every endeavour shall be made by the Tribunal or the Appellate Tribunal, as the case may be, for the disposal of such application or petition or appeal within

1. Subs. by Act 31 of 2016, s. 255 and the Eleventh Schedule, for sub-section (4) (w.e.f. 15-11-2016).

three months from the date of its presentation before the Tribunal or the filing of the appeal before the Appellate Tribunal.

(2) Where any application or petition or appeal is not disposed of within the period specified in sub-section (1), the Tribunal or, as the case may be, the Appellate Tribunal, shall record the reasons for not disposing of the application or petition or the appeal, as the case may be, within the period so specified; and the President or the Chairperson, as the case may be, may, after taking into account the reasons so recorded, extend the period referred to in sub-section (1) by such period not exceeding ninety days as he may consider necessary.

423. Appeal to Supreme Court.—Any person aggrieved by any order of the Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of receipt of the order of the Appellate Tribunal to him on any question of law arising out of such order:

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

424. Procedure before Tribunal and Appellate Tribunal.—(1) The Tribunal and the Appellate Tribunal shall not, while disposing of any proceeding before it or, as the case may be, an appeal before it, be bound by the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice, and, subject to the other provisions of this Act ¹[or of the Insolvency and Bankruptcy Code, 2016 (31 of 2016)] and of any rules made hereunder, the Tribunal and the Appellate Tribunal shall have power to regulate their own procedure.

(2) The Tribunal and the Appellate Tribunal shall have, for the purposes of discharging their functions under this Act ¹[or under the Insolvency and Bankruptcy Code, 2016 (31 of 2016)], the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely:—

- (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;
- (d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), requisitioning any public record or document or a copy of such record or document from any office;
- (e) issuing commissions for the examination of witnesses or documents;
- (f) dismissing a representation for default or deciding it *ex parte*;
- (g) setting aside any order of dismissal of any representation for default or any order passed by it *ex parte*; and
- (h) any other matter which may be prescribed.

(3) Any order made by the Tribunal or the Appellate Tribunal may be enforced by that Tribunal in the same manner as if it were a decree made by a court in a suit pending therein, and it shall be lawful for the Tribunal or the Appellate Tribunal to send for execution of its orders to the court within the local limits of whose jurisdiction,—

- (a) in the case of an order against a company, the registered office of the company is situate; or
- (b) in the case of an order against any other person, the person concerned voluntarily resides or carries on business or personally works for gain.

(4) All proceedings before the Tribunal or the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860), and the Tribunal and the Appellate Tribunal shall be deemed to be civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

1. Ins. by Act 31 of 2016, s. 255 and the Eleventh Schedule (w.e.f. 15-11-2016).

425. Power to punish for contempt.—The Tribunal and the Appellate Tribunal shall have the same jurisdiction, powers and authority in respect of contempt of themselves as the High Court has and may exercise, for this purpose, the powers under the provisions of the Contempt of Courts Act, 1971(70 of 1971),which shall have the effect subject to modifications that—

(a) the reference therein to a High Court shall be construed as including a reference to the Tribunal and the Appellate Tribunal; and

(b) the reference to Advocate-General in section 15 of the said Act shall be construed as a reference to such Law Officers as the Central Government may, specify in this behalf.

426. Delegation of powers.—The Tribunal or the Appellate Tribunal may, by general or special order, direct, subject to such conditions, if any, as may be specified in the order, any of its officers or employees or any other person authorised by it to inquire into any matter connected with any proceeding or, as the case may be, appeal before it and to report to it in such manner as may be specified in the order.

427. President, Members, officers, etc., to be public servants.—The President, Members, officers and other employees of the Tribunal and the Chairperson, Members, officers and other employees of the Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

428. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the Tribunal, the President, Member, officer or other employee, or against the Appellate Tribunal, the Chairperson, Member, officer or other employees thereof or liquidator or any other person authorised by the Tribunal or the Appellate Tribunal for the discharge of any function under this Act in respect of any loss or damage caused or likely to be caused by any act which is in good faith done or intended to be done in pursuance of this Act.

429. Power to seek assistance of Chief Metropolitan Magistrate, etc.—¹[(1) The Tribunal may, in any proceedings for winding up of a company under this Act or in any proceedings under the Insolvency and Bankruptcy Code, 2016 (31 of 2016), in order to take into custody or under its control all property, books of account or other documents, request, in writing, the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector within whose jurisdiction any such property, books of account or other documents of such company under this Act or of corporate persons under the said Code, are situated or found, to take possession thereof, and the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector, as the case may be, shall, on such request being made to him,—

(a) take possession of such property, books of account or other documents; and

(b) cause the same to be entrusted to the Tribunal or other persons authorised by it.]

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

(3) No act of the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector done in pursuance of this section shall be called in question in any court or before any authority on any ground whatsoever.

430. Civil court not to have jurisdiction.—No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Tribunal or the Appellate Tribunal is empowered to determine by or under this Act or any other law for the time being in force and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act or any other law for the time being in force, by the Tribunal or the Appellate Tribunal.

431. Vacancy in Tribunal or Appellate Tribunal not to invalidate acts or proceedings.—No act or proceeding of the Tribunal or the Appellate Tribunal shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Tribunal or the Appellate Tribunal, as the case may be.

432. Right to legal representation.—A party to any proceeding or appeal before the Tribunal or the Appellate Tribunal, as the case may be, may either appear in person or authorise one or more chartered accountants or company

1. Subs. by Act 31 of 2016, s. 255 and the Eleventh Schedule, for section 429 (w.e.f. 15-11-2016).

secretaries or cost accountants or legal practitioners or any other person to present his case before the Tribunal or the Appellate Tribunal, as the case may be.

433. Limitation.—The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to proceedings or appeals before the Tribunal or the Appellate Tribunal, as the case maybe.

¹[434. Transfer of certain pending proceedings.](1) On such date as may be notified by the Central Government in this behalf,—

(a) all matters, proceedings or cases pending before the Board of Company Law Administration (herein in this section referred to as the Company Law Board) constituted under sub-section (1) of section 10E of the Companies Act, 1956 (1 of 1956), immediately before such date shall stand transferred to the Tribunal and the Tribunal shall dispose of such matters, proceedings or cases in accordance with the provisions of this Act;

(b) any person aggrieved by any decision or order of the Company Law Board made before such date may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Company Law Board to him on any question of law arising out of such order:

Provided that the High Court may if it is satisfied that the appellant was prevented by sufficient cause from filing an appeal within the said period, allow it to be filed within a further period not exceeding sixty days; and

(c) all proceedings under the Companies Act, 1956 (1 of 1956), including proceedings relating to arbitration, compromise, arrangements and reconstruction and winding up of companies, pending immediately before such date before any District Court or High Court, shall stand transferred to the Tribunal and the Tribunal may proceed to deal with such proceedings from the stage before their transfer:

Provided that only such proceedings relating to the winding up of companies shall be transferred to the Tribunal that are at a stage as may be prescribed by the Central Government:

²[Provided further that any party or parties to any proceedings relating to the winding up of companies pending before any Court immediately before the commencement of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018, may file an application of transfer of such proceedings and the Court may by order transfer such proceedings to the Tribunal and the proceedings so transferred shall be dealt with by the Tribunal as an application for initiation of corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016 (31 of 2016).

³[Provided further that only such proceedings relating to cases other than winding-up, for which orders for allowing or otherwise of the proceedings are not reserved by the High Courts shall be transferred to the Tribunal

⁴[Provided also that]—

(i) all proceedings under the Companies Act, 1956 other than the cases relating to winding up of companies that are reserved for orders for allowing or otherwise such proceedings; or

(ii) the proceedings relating to winding up of companies which have not been transferred from the High Courts;

shall be dealt with in accordance with provisions of the Companies Act, 1956 and the Companies (Court) Rules, 1959.]

⁵[Provided also that proceedings relating to cases of voluntary winding up of a company where notice of the resolution by advertisement has been given under sub-section (1) of section 485 of the Companies Act, 1956 but the company has not been dissolved before the 1st April, 2017 shall continue to be dealt with in accordance with provisions of the Companies Act, 1956 and the Companies (Court) Rules, 1959.]

(2) The Central Government may make rules consistent with the provisions of this Act to ensure timely transfer of all matters, proceedings or cases pending before the Company Law Board or the courts, to the Tribunal under this section.]

1. Subs. by Act 31 of 2016, s. 255 and the Eleventh Schedule, for section 434 (w.e.f. 15-11-2016).

2. Ins. by Act 26 of 2018, s. 39 (w.e.f. 6-6-2018).

3. Ins. by Notification No. S.O. 3676(E), dated 7th December 2016 (w.e.f. 15-12-2016).

4. Subs. by Notification No. S.O. 2042(E), dated 29th June 2017 for “Provided further that” (w.e.f. 29-6-2017).

5. Ins., *ibid.* (w.e.f. 29-6-2017).

CHAPTER XXVIII
SPECIAL COURTS

1[435. Establishment of Special Courts.]—(1) The Central Government may, for the purpose of providing speedy trial of ²[offences under this Act, except under section 452, by notification] establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of—

(a) a single judge holding office as Session Judge or Additional Session Judge, in case of offences punishable under this Act with imprisonment of two years or more; and

(b) a Metropolitan Magistrate or a Judicial Magistrate of the First Class, in the case of other offences, who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.]

436. Offences triable by Special Courts.]—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) ³[all offences specified under sub-section (1) of section 435] shall be triable only by the Special Court established or designated for the area in which the registered office of the company in relation to which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned;

(b) where a person accused of, or suspected of the commission of, an offence under this Act is forwarded to a Magistrate under sub-section (2) or sub-section (2A) of section 167 of the Code of Criminal Procedure, 1973 (2 of 1974), such Magistrate may authorise the detention of such person in such custody as he thinks fit for a period not exceeding fifteen days in the whole where such Magistrate is a Judicial Magistrate and seven days in the whole where such Magistrate is an Executive Magistrate:

Provided that where such Magistrate considers that the detention of such person upon or before the expiry of the period of detention is unnecessary, he shall order such person to be forwarded to the Special Court having jurisdiction;

(c) the Special Court may exercise, in relation to the person forwarded to it under clause (b), the same power which a Magistrate having jurisdiction to try a case may exercise under section 167 of the Code of Criminal Procedure, 1973 (2 of 1974) in relation to an accused person who has been forwarded to him under that section; and

(d) a Special Court may, upon perusal of the police report of the facts constituting an offence under this Act or upon a complaint in that behalf, take cognizance of that offence without the accused being committed to it for trial.

(2) When trying an offence under this Act, a Special Court may also try an offence other than an offence under this Act with which the accused may, under the Code of Criminal Procedure, 1973 (2 of 1974) be charged at the same trial.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the Special Court may, if it thinks fit, try in a summary way any offence under this Act which is punishable with imprisonment for a term not exceeding three years:

Provided that in the case of any conviction in a summary trial, no sentence of imprisonment for a term exceeding one year shall be passed:

Provided further that when at the commencement of, or in the course of, a summary trial, it appears to the Special Court that the nature of the case is such that the sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Special Court shall, after hearing the parties, record an order to that effect and thereafter recall any witnesses who may have been examined and proceed to hear or rehear the case in accordance with the procedure for the regular trial.

437. Appeal and revision.]—The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 (2 of 1974) on a High

1. Subs. by Act 1 of 2018, s. 86, for “section 435” (w.e.f. 7-5-2018).

2. Subs. by Act 29 of 2020, s. 60, for “offences under this Act, by notification” (w.e.f. 22-1-2021).

3. Subs. by Act 21 of 2015, s. 22, for “all offences under this Act” (w.e.f. 29-5-2015).

Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

438. Application of Code to proceedings before Special Court.—Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be ¹[deemed to be a Court of Session or the court of Metropolitan Magistrate or a Judicial Magistrate of the First Class, as the case may be,] and the person conducting a prosecution before a Special Court shall be deemed to be a Public Prosecutor.

439. Offences to be non-cognizable.—(1) Notwithstanding anything in the Code of Criminal Procedure, 1973 (2 of 1974), every offence under this Act except the offences referred to in sub-section (6) of section 212 shall be deemed to be non-cognizable within the meaning of the said Code.

(2) No court shall take cognizance of any offence under this Act which is alleged to have been committed by any company or any officer thereof, except on the complaint in writing of the Registrar, a shareholder ²[or a member] of the company, or of a person authorised by the Central Government in that behalf:

Provided that the court may take cognizance of offences relating to issue and transfer of securities and non-payment of dividend, on a complaint in writing, by a person authorised by the Securities and Exchange Board of India:

Provided further that nothing in this sub-section shall apply to a prosecution by a company of any of its officers.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), where the complainant under sub-section (2) is the Registrar or a person authorised by the Central Government, the presence of such officer before the Court trying the offences shall not be necessary unless the court requires his personal attendance at the trial.

(4) The provisions of sub-section (2) shall not apply to any action taken by the liquidator of a company in respect of any offence alleged to have been committed in respect of any of the matters in Chapter XX or in any other provision of this Act relating to winding up of companies.

Explanation.—The liquidator of a company shall not be deemed to be an officer of the company within the meaning of sub-section (2).

440. Transitional provisions.—Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a ³[Court of Session or the Court of Metropolitan Magistrate or a Judicial Magistrate of the First Class, as the case may be] exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974):

Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code to transfer any case or class of cases taken cognizance by a ¹[Court of Session or the Court of Metropolitan Magistrate or a Judicial Magistrate of the First Class, as the case may be] under this section.

441. Compounding of certain offences.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act (whether committed by a company or any officer thereof) ⁴[not being an offence punishable with imprisonment only, or punishable with imprisonment and also with fine], may, either before or after the institution of any prosecution, be compounded by—

(a) the Tribunal; or

(b) where the maximum amount of fine which may be imposed for such offence ⁵[does not exceed twenty-five lakh rupees], by the Regional Director or any officer authorised by the Central Government, on payment or credit, by the company or, as the case may be, the officer, to the Central Government of

1. Subs. by Act 1 of 2018, s. 87 for “deemed to be a Court of Session” (w.e.f. 7-5-2018).

2. Ins. by Act 1 of 2018, s. 88 (w.e.f. 7-5-2018).

3. Subs. by s. 89, *ibid.*, for “Court of Session” (w.e.f. 7-5-2018).

3. Subs. by s. 90, *ibid.*, for “with fine only”(w.e.f. 9-2-2018).

4. Subs. by Act 22 of 2019, s. 39, for “does not exceed five lakh rupees” (w.e.f. 2-11-2018).

such sum as that Tribunal or the Regional Director or any officer authorised by the Central Government, as the case may be, may specify:

Provided that the sum so specified shall not, in any case, exceed the maximum amount of the fine which may be imposed for the offence so compounded:

Provided further that in specifying the sum required to be paid or credited for the compounding of an offence under this sub-section, the sum, if any, paid by way of additional fee under sub-section (2) of section 403 shall be taken into account:

Provided also that any offence covered under this sub-section by any company or its officer shall not be compounded if the investigation against such company has been initiated or is pending under this Act.

(2) Nothing in sub-section (1) shall apply to an offence committed by a company or its officer within a period of three years from the date on which a similar offence committed by it or him was compounded under this section.

Explanation.—For the purposes of this section,—

(a) any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, shall be deemed to be a first offence;

(b) “Regional Director” means a person appointed by the Central Government as a Regional Director for the purposes of this Act.

(3) (a) Every application for the compounding of an offence shall be made to the Registrar who shall forward the same, together with his comments thereon, to the Tribunal or the Regional Director or any officer authorised by the Central Government, as the case may be.

(b) Where any offence is compounded under this section, whether before or after the institution of any prosecution, an intimation thereof shall be given by the company to the Registrar within seven days from the date on which the offence is so compounded.

(c) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, either by the Registrar or by any share holder of the company or by any person authorised by the Central Government against the offender in relation to whom the offence is so compounded.

(d) Where the compounding of any offence is made after the institution of any prosecution, such compounding shall be brought by the Registrar in writing, to the notice of the court in which the prosecution is pending and on such notice of the compounding of the offence being given, the company or its officer in relation to whom the offence is so compounded shall be discharged.

(4) The Tribunal or the Regional Director or any officer authorised by the Central Government, as the case may be, while dealing with a proposal for the compounding of an offence for a default in compliance with any provision of this Act which requires a company or its officer to file or register with, or deliver or send to, the Registrar any return, account or other document, may direct, by an order, if it or he thinks fit to do so, any officer or other employee of the company to file or register with, or on payment of the fee, and the additional fee, required to be paid under section 403, such return, account or other document within such time as may be specified in the order.

¹[(5) If any officer or other employee of the company who fails to comply with any order made by the Tribunal or the Regional Director or any officer authorised by the Central Government under sub-section (4), the maximum amount of fine for the offence proposed to be compounded under this section shall be twice the amount provided in the corresponding section in which punishment for such offence is provided.]

²[(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence which is punishable under this Act with imprisonment only or with imprisonment and also with fine shall not be compoundable.]

(7) No offence specified in this section shall be compounded except under and in accordance with the provisions of this section.

1. Subs. by Act 29 of 2020, s. 61, for sub-section (5) (w.e.f. 21-12-2020).

2. Subs. by Act 22 of 2019, s. 39, for sub-section (6) (w.e.f. 2-11-2018).

442. Mediation and Conciliation Panel.—(1) The Central Government shall maintain a panel of experts to be called as the Mediation and Conciliation Panel consisting of such number of experts having such qualifications as may be prescribed for mediation between the parties during the pendency of any proceedings before the Central Government or the Tribunal or the Appellate Tribunal under this Act.

(2) Any of the parties to the proceedings may, at any time during the proceedings before the Central Government or the Tribunal or the Appellate Tribunal, apply to the Central Government or the Tribunal or the Appellate Tribunal, as the case may be, in such form along with such fees as may be prescribed, for referring the matter pertaining to such proceedings to the Mediation and Conciliation Panel and the Central Government or the Tribunal or the Appellate Tribunal, as the case may be, shall appoint one or more experts from the panel referred to in sub-section (1).

(3) The Central Government or the Tribunal or the Appellate Tribunal before which any proceeding is pending may, *suo motu*, refer any matter pertaining to such proceeding to such number of experts from the Mediation and Conciliation Panel as the Central Government or the Tribunal or the Appellate Tribunal, as the case may be, deems fit.

(4) The fee and other terms and conditions of experts of the Mediation and Conciliation Panel shall be such as may be prescribed.

(5) The Mediation and Conciliation Panel shall follow such procedure as may be prescribed and dispose of the matter referred to it within a period of three months from the date of such reference and forward its recommendations to the Central Government or the Tribunal or the Appellate Tribunal, as the case may be.

(6) Any party aggrieved by the recommendation of the Mediation and Conciliation Panel may file objections to the Central Government or the Tribunal or the Appellate Tribunal, as the case may be.

443. Power of Central Government to appoint company prosecutors.—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government may appoint generally, or for any case, or in any case, or for any specified class of cases in any local area, one or more persons, as company prosecutors for the conduct of prosecutions arising out of this Act and the persons so appointed as company prosecutors shall have all the powers and privileges conferred by the Code on Public Prosecutors appointed under section 24 of the Code.

444. Appeal against acquittal.—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government may, in any case arising under this Act, direct any company prosecutor or authorise any other person either by name or by virtue of his office, to present an appeal from an order of acquittal passed by any court, other than a High Court, and an appeal presented by such prosecutor or other person shall be deemed to have been validly presented to the appellate court.

445. Compensation for accusation without reasonable cause.—The provisions of section 250 of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply *mutatis mutandis* to compensation for accusation without reasonable cause before the Special Court or the Court of Session.

446. Application of fines.—The 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 payment of a reward to the person on whose information the proceedings were instituted.

¹[**446A. Factors for determining level of punishment.**—The court or the Special Court, while deciding the amount of fine or imprisonment under this Act, shall have due regard to the following factors, namely:—

- (a) size of the company;
- (b) nature of business carried on by the company;
- (c) injury to public interest;
- (d) nature of the default; and
- (e) repetition of the default.

²[**446B. Lesser penalties for certain companies.**—Notwithstanding anything contained in this Act, if penalty is payable for non-compliance of any of the provisions of this Act by a One Person Company, small company, start-up company or Producer Company, or by any of its officer in default, or any other person in respect of such company, then such company, its officer in default or any other person, as the case may

1. Ins. by Act 1 of 2018, s. 91 (w.e.f. 9-2-2018).

2. Subs. by Act 29 of 2020, s. 62, for section 446B (w.e.f. 22-1-2021).

be, shall be liable to a penalty which shall not be more than one-half of the penalty specified in such provisions subject to a maximum of two lakh rupees in case of a company and one lakh rupees in case of an officer who is in default or any other person, as the case may be.

Explanation.—For the purposes of this section,—

(a) “Producer Company” means a company as defined in clause (l) of section 378A;

(b) “start-up company” means a private company incorporated under this Act or under the Companies Act, 1956 (1 of 1956) and recognised as start-up in accordance with the notification issued by the Central Government in the Department for Promotion of Industry and Internal Trade.]

CHAPTER XXIX

MISCELLANEOUS

447. Punishment for fraud.—Without prejudice to any liability including repayment of any debt under this Actor any other law for the time being in force, any person who is found to be guilty of fraud,¹[involving an amount of at least ten lakh rupees or one per cent. of the turnover of the company, whichever is lower] shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to ten years and shall also be liable to fine which shall not be less than the amount involved in the fraud, but which may extend to three times the amount involved in the fraud:

Provided that where the fraud in question involves public interest, the term of imprisonment shall not be less than three years.

²[Provided further that where the fraud involves an amount less than ten lakh rupees or one per cent. of the turnover of the company, whichever is lower, and does not involve public interest, any person guilty of such fraud shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to ³[fifty lakh rupees] or with both.]

Explanation.—For the purposes of this section—

(i) “fraud”, in relation to affairs of a company or any body corporate, includes any act, omission, concealment of any fact or abuse of position committed by any person or any other person with the connivance in any manner, with intent to deceive, to gain undue advantage from, or to injure the interests of, the company or its shareholders or its creditors or any other person, whether or not there is any wrongful gain or wrongful loss;

(ii) “wrongful gain” means the gain by unlawful means of property to which the person gaining is not legally entitled;

(iii) “wrongful loss” means the loss by unlawful means of property to which the person losing is legally entitled.

448. Punishment for false statement.—Save as otherwise provided in this Act, if in any return, report, certificate, financial statement, prospectus, statement or other document required by, or for, the purposes of any of the provisions of this Act or the rules made thereunder, any person makes a statement,—

(a) which is false in any material particulars, knowing it to be false; or

(b) which omits any material fact, knowing it to be material,

he shall be liable under section 447.

449. Punishment for false evidence.—Save as otherwise provided in this Act, if any person intentionally gives false evidence—

(a) upon any examination on oath or solemn affirmation, authorised under this Act; or

(b) in any affidavit, deposition or solemn affirmation, in or about the winding up of any company under this Act, or otherwise in or about any matter arising under this Act,

he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and with fine which may extend to ten lakh rupees.

450. Punishment where no specific penalty or punishment is provided.—If a company or any officer of a company or any other person contravenes any of the provisions of this Act or the rules made

1. Ins. by Act 1 of 2018, s. 92 (w.e.f. 9-2-2018).

2. The proviso ins. by s. 92, *ibid.* (w.e.f. 9-2-2018).

3. Subs. by Act 22 of 2019, s. 41, for “twenty lakh rupees” (w.e.f. 2-11-2018).

thereunder, or any condition, limitation or restriction subject to which any approval, sanction, consent, confirmation, recognition, direction or exemption in relation to any matter has been accorded, given or granted, and for which no penalty or punishment is provided elsewhere in this Act, the company and every officer of the company who is in default or such other person shall be ¹[liable to a penalty of ten thousand rupees, and in case of continuing contravention, with a further penalty of one thousand rupees for each day after the first during which the contravention continues, subject to a maximum of two lakh rupees in case of a company and fifty thousand rupees in case of an officer who is in default or any other person].

451. Punishment in case of repeated default.—If a company or an officer of a company commits an offence punishable either with fine or with imprisonment and where the same offence is committed for the second or subsequent occasions within a period of three years, then, that company and every officer thereof who is in default shall be punishable with twice the amount of fine for such offence in addition to any imprisonment provided for that offence.

452. Punishment for wrongful withholding of property.—(1) If any officer or employee of a company—

(a) wrongfully obtains possession of any property, including cash of the company; or

(b) having any such property including cash in his possession, wrongfully withholds it or knowingly applies it for the purposes other than those expressed or directed in the articles and authorised by this Act,³

he shall, on the complaint of the company or of any member or creditor or contributory thereof, be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

(2) The Court trying an offence under sub-section (1) may also order such officer or employee to deliver up or refund, within a time to be fixed by it, any such property or cash wrongfully obtained or wrongfully withheld or knowingly misapplied, the benefits that have been derived from such property or cash or in default, to undergo imprisonment for a term which may extend to two years.

²[Provided that the imprisonment of such officer or employee, as the case may be, shall not be ordered for wrongful possession or withholding of a dwelling unit, if the court is satisfied that the company has not paid to that officer or employee, as the case may be, any amount relating to--

(a) provident fund, pension fund, gratuity fund or any other fund for the welfare of its officers or employees, maintained by the company;

(b) compensation or liability for compensation under the Workmen's Compensation Act, 1923 (19 of 1923) in respect of death or disablement.]

453. Punishment for improper use of “Limited” or “Private Limited”.—If any person or persons trade or carry on business under any name or title, of which the word “Limited” or the words “Private Limited” or any contraction or imitation thereof is or are the last word or words, that person or each of those persons shall, unless duly incorporated with limited liability, or unless duly incorporated as a private company with limited liability, as the case may be, punishable with fine which shall not be less than five hundred rupees but may extend to two thousand rupees for every day for which that name or title has been used.

454. Adjudication of penalties.—(1) The Central Government may, by an order published in the Official Gazette, appoint as many officers of the Central Government, not below the rank of Registrar, as adjudicating officers for adjudging penalty under the provisions of this Act in the manner as may be prescribed.

(2) The Central Government shall while appointing adjudicating officers, specify their jurisdiction in the order under sub-section (1).

³[(3) The adjudicating officer may, by an order—

(a) impose the penalty on the company, the officer who is in default, or any other person, as the case may be, stating therein any non-compliance or default under the relevant provisions of this Act; and

4. Subs. by Act 29 of 2020, s. 63, for certain words (w.e.f. 21-12-2020).

1. Ins. by Act 29 of 2020, s. 64 (w.e.f. 22-1-2021).

2. Subs. by Act 22 of 2019, s. 42, for sub-section (3) (w.e.f. 2-11-2018).

(b) direct such company, or officer who is in default, or any other person, as the case may be, to rectify the default, wherever he considers fit.]

¹[Provided that in case the default relates to non-compliance of sub-section (4) of section 92 or sub-section (1) or sub-section (2) of section 137 and such default has been rectified either prior to, or within thirty days of, the issue of the notice by the adjudicating officer, no penalty shall be imposed in this regard and all proceedings under this section in respect of such default shall be deemed to be concluded.]

(4) The adjudicating officer shall, before imposing any penalty, give a reasonable opportunity of being heard to ²[such company, the officer who is in default or any other person].

(5) Any person aggrieved by an order made by the adjudicating officer under sub-section (3) may prefer an appeal to the Regional Director having jurisdiction in the matter.

(6) Every appeal under sub-section (5) shall be filed within sixty days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person and shall be in such form, manner and be accompanied by such fees as may be prescribed.

(7) The Regional Director may, after giving the parties to the appeal an opportunity of being heard, pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against.

(8) (i) Where company ³[fails to comply with the order made under sub-section (3) or sub-section (7), as the case may be,] within a period of ninety days from the date of the receipt of the copy of the order, the company shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees.

(ii) ⁴[Where an officer of a company or any other person] who is in default ⁵[fails to comply with the order made under sub-section (3) or sub-section (7), as the case may be,] within a period of ninety days from the date of the receipt of the copy of the order, such officer shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees, or with both.

⁶[**454A. Penalty for repeated default.**—Where a company or an officer of a company or any other person having already been subjected to penalty for default under any provisions of this Act, again commits such default within a period of three years from the date of order imposing such penalty passed by the adjudicating officer or the Regional Director, as the case may be, it or he shall be liable for the second or subsequent defaults for an amount equal to twice the amount of penalty provided for such default under the relevant provisions of this Act.]

455. Dormant company.—(1) Where a company is formed and registered under this Act for a future project or to hold an asset or intellectual property and has no significant accounting transaction, such a company or an inactive company may make an application to the Registrar in such manner as may be prescribed for obtaining the status of a dormant company.

Explanation.—For the purposes of this section,—

(i) “inactive company” means a company which has not been carrying on any business or operation, or has not made any significant accounting transaction during the last two financial years, or has not filed financial statements and annual returns during the last two financial years;

(ii) “significant accounting transaction” means any transaction other than—

- (a) payment of fees by a company to the Registrar;
- (b) payments made by it to fulfil the requirements of this Act or any other law;
- (c) allotment of shares to fulfil the requirements of this Act; and
- (d) payments for maintenance of its office and records.

3. Ins. by Act 29 of 2020, s. 65 (w.e.f. 22-1-2021).

1. Subs. by Act 22 of 2019, s. 42, for “such company and the officer who is in default” (w.e.f. 2-11-2018).

2. Subs. by s. 42, *ibid.*, for “does not pay the penalty imposed by the adjudicating officer or the Regional Director” (w.e.f. 2-11-2018).

3. The words “Where an officer of a company or any other person” omitted by s. 42, *ibid.*, (w.e.f. 2-11-2018).

4. The words “does not pay the penalty” omitted by s. 42, *ibid.* (w.e.f. 2-11-2018).

5. Ins. by s. 43, *ibid.* (w.e.f. 2-11-2018).

(2) The Registrar on consideration of the application shall allow the status of a dormant company to the applicant and issue a certificate in such form as may be prescribed to that effect.

(3) The Registrar shall maintain a register of dormant companies in such form as maybe prescribed.

(4) In case of a company which has not filed financial statements or annual returns for two financial years consecutively, the Registrar shall issue a notice to that company and enter the name of such company in the register maintained for dormant companies.

(5) A dormant company shall have such minimum number of directors, file such documents and pay such annual fee as may be prescribed to the Registrar to retain its dormant status in the register and may become an active company on an application made in this behalf accompanied by such documents and fee as may be prescribed.

(6) The Registrar shall strike off the name of a dormant company from the register of dormant companies, which has failed to comply with the requirements of this section.

456. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government or any other person in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder, or in respect of the publication by or under the authority of the Government or such officer, of any report, paper or proceedings.

457. Non-disclosure of information in certain cases.—Notwithstanding anything contained in any other law for the time being in force, the Registrar, any officer of the Government or any other person shall not be compelled to disclose to any court, Tribunal or other authority, the source from where he got any information which—

(a) has led the Central Government to order an investigation under section 210; or

(b) is or has been material or relevant in connection with such investigation.

458. Delegation by Central Government of its powers and functions.—(1) The Central Government may, by notification, and subject to such conditions, limitations and restrictions as may be specified therein, delegate any of its powers or functions under this Act other than the power to make rules to such authority or officer as may be specified in the notification:

1*

*

*

*

*

(2) A copy of every notification issued under sub-section (1) shall, as soon as may be after it is issued, be laid before each House of Parliament.

459. Powers of Central Government of Tribunal to accord approval, etc., subject to conditions and to prescribe fees on applications.—(1) Where the Central Government or the Tribunal is required or authorised by any provision of this Act—

(a) to accord approval, sanction, consent, confirmation or recognition to, or in relation to, any matter; or

(b) to give any direction in relation to any matter; or

(c) to grant any exemption in relation to any matter,

then, the Central Government or the Tribunal may in the absence of anything to the contrary contained in that provision or any other provision of this Act, accord, give or grant such approval, sanction, consent, confirmation, recognition, direction or exemption, subject to such conditions, limitations or restrictions as it may think fit to impose and may, in the case of a contravention of any such condition, limitation or restriction, rescind or withdraw such approval, sanction, consent, confirmation, recognition, direction or exemption.

(2) Save as otherwise provided in this Act, every application which may be, or is required to be, made to the Central Government or the Tribunal under any provision of this Act—

(a) in respect of any approval, sanction, consent, confirmation or recognition to be accorded by that Government or the Tribunal to, or in relation to, any matter; or

1. The proviso omitted by Act 1 of 2018, s. 93 (w.e.f. 9-2-2018).

(b) in respect of any direction or exemption to be given or granted by that Government or the Tribunal in relation to any matter; or

(c) in respect of any other matter,

shall be accompanied by such fees as may be prescribed:

Provided that different fees may be prescribed for applications in respect of different matters or in case of applications by different classes of companies.

460. Condonation of delay in certain cases.—Notwithstanding anything contained in this Act,—

(a) where any application required to be made to the Central Government under any provision of this Act in respect of any matter is not made within the time specified therein, that Government may, for reasons to be recorded in writing, condone the delay; and

(b) where any document required to be filed with the Registrar under any provision of this Act is not filed within the time specified therein, the Central Government may, for reasons to be recorded in writing, condone the delay.

461. Annual report by Central Government.—The Central Government shall cause a general annual report on the working and administration of this Act to be prepared and laid before each House of Parliament within one year of the close of the year to which the report relates.

462. Power to exempt class or classes of companies from provisions of this Act.—(1) The Central Government may in the public interest, by notification direct that any of the provisions of this Act,—

(a) shall not apply to such class or classes of companies; or

(b) shall apply to the class or classes of companies with such exceptions, modifications and adaptations as may be specified in the notification.

¹[(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days, and if, both Houses agree in disapproving the issue of notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

(3) In reckoning any such period of thirty days as is referred to in sub-section (2), no account shall be taken of any period during which the House referred to in sub-section (2) is prorogued or adjourned for more than four consecutive days.

(4) The copies of every notification issued under this section shall, as soon as may be after it has been issued, be laid before each House of Parliament.]

463. Power of court to grant relief in certain cases.—(1) If in any proceeding for negligence, default, breach of duty, misfeasance or breach of trust against an officer of a company, it appears to the court hearing the case that he is or may be liable in respect of the negligence, default, breach of duty, misfeasance or breach of trust, but that he has acted honestly and reasonably, and that having regard to all the circumstances of the case, including those connected with his appointment, he ought fairly to be excused, the court may relieve him, either wholly or partly, from his liability on such term, as it may think fit:

Provided that in a criminal proceeding under this sub-section, the court shall have no power to grant relief from any civil liability which may attach to an officer in respect of such negligence, default, breach of duty, misfeasance or breach of trust.

(2) Where any such officer has reason to apprehend that any proceeding will or might be brought against him in respect of any negligence, default, breach of duty, misfeasance or breach of trust, he may apply to the High Court for relief and the High Court on such application shall have the same power to relieve him as it would have had if it had been a court before which a proceedings against that officer for negligence, default, breach of duty, misfeasance or breach of trust had been brought under sub-section (1).

(3) No court shall grant any relief to any officer under sub-section (1) or sub-section (2) unless it has, by notice served in the manner specified by it, required the Registrar and such other person, if any, as it thinks necessary, to show cause why such relief should not be granted.

1. Subs. by Act 21 of 2015, s. 23, for sub-section (2) (w.e.f. 29-5-2015).

464. Prohibition of association or partnership of persons exceeding certain number.—(1) No association or partnership consisting of more than such number of persons as may be prescribed shall be formed for the purpose of carrying on any business that has for its object the acquisition of gain by the association or partnership or by the individual members thereof, unless it is registered as a company under this Act or is formed under any other law for the time being in force:

Provided that the number of persons which may be prescribed under this sub-section shall not exceed one hundred.

(2) Nothing in sub-section (1) shall apply to—

(a) a Hindu undivided family carrying on any business; or

(b) an association or partnership, if it is formed by professionals who are governed by special Acts.

(3) Every member of an association or partnership carrying on business in contravention of sub-section (1) shall be punishable with fine which may extend to one lakh rupees and shall also be personally liable for all liabilities incurred in such business.

465. Repeal of certain enactments and savings.—(1) The Companies Act, 1956 (1 of 1956) and the Registration of Companies (Sikkim) Act, 1961 (Sikkim Act 8 of 1961) (hereafter in this section referred to as the repealed enactments) shall stand repealed:

1*

*

*

*

*

²[Provided that] until a date is notified by the Central Government under sub-section (1) of Section 434 for transfer of all matters, proceedings or cases to the Tribunal, the provisions of the Companies Act, 1956 (1 of 1956) in regard to the jurisdiction, powers, authority and functions of the Board of Company Law Administration and court shall continue to apply as if the Companies Act, 1956 has not been repealed:

³[Provided further that] provisions of the Companies Act, 1956 (1 of 1956) referred in the notification issued under section 67 of the Limited Liability Partnership Act, 2008 (6 of 2009) shall, until the relevant notification under such section applying relevant corresponding provisions of this Act to limited liability partnerships is issued, continue to apply as if the Companies Act, 1956 has not been repealed.

(2) Notwithstanding the repeal under sub-section (1) of the repealed enactments,—

(a) anything done or any action taken or purported to have been done or taken, including any rule, notification, inspection, order or notice made or issued or any appointment or declaration made or any operation undertaken or any direction given or any proceeding taken or any penalty, punishment, forfeiture or fine imposed under the repealed enactments shall, insofar as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;

(b) subject to the provisions of clause (a), any order, rule, notification, regulation, appointment, conveyance, mortgage, deed, document or agreement made, fee directed, resolution passed, direction given, proceeding taken, instrument executed or issued, or thing done under or in pursuance of any repealed enactment shall, if in force at the commencement of this Act, continue to be in force, and shall have effect as if made, directed, passed, given, taken, executed, issued or done under or in pursuance of this Act;

(c) any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure or existing usage, custom, privilege, restriction or exemption shall not be affected, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in, or from, the repealed enactments;

(d) any person appointed to any office under or by virtue of any repealed enactment shall be deemed to have been appointed to that office under or by virtue of this Act;

(e) any jurisdiction, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not in existence or in force shall not be revised or restored;

(f) the offices existing on the commencement of this Act for the registration of companies shall continue as if they have been established under the provisions of this Act;

1. The first proviso omitted by Act 29 of 2020, s. 66 (w.e.f. 11-2-2021).

2. Subs. by s. 66, *ibid.*, for “Provided further that” (w.e.f. 11-2-2021).

3. Subs. by s.66, *ibid.*, for “Provided also that” (w.e.f. 11-2-2021).

(g) the incorporation of companies registered under the repealed enactments shall continue to be valid and the provisions of this Act shall apply to such companies as if they were registered under this Act;

(h) all registers and all funds constituted and established under the repealed enactments shall be deemed to be registers and funds constituted or established under the corresponding provisions of this Act;

(i) any prosecution instituted under the repealed enactments and pending immediately before the commencement of this Act before any Court shall, subject to the provisions of this Act, continue to be heard and disposed of by the said Court;

(j) any inspection, investigation or inquiry ordered to be done under the Companies Act, 1956 (1 of 1956) shall continue to be proceeded with as if such inspection, investigation or inquiry has been ordered under the corresponding provisions of this Act; and

(k) any matter filed with the Registrar, Regional Director or the Central Government under the Companies Act, 1956 (1 of 1956) before the commencement of this Act and not fully addressed at that time shall be concluded by the Registrar, Regional Director or the Central Government, as the case may be, in terms of that Act, despite its repeal.

(3) The mention of particular matters in sub-section (2) shall not be held to prejudice the general application of section 6 of the General Clauses Act, 1897 (10 of 1897) with regard to the effect of repeal of the repealed enactments as if the Registration of Companies (Sikkim) Act, 1961 (Sikkim Act 8 of 1961) were also a Central Act.

466. Dissolution of Company Law Board and consequential provisions.—(1) Notwithstanding anything contained in section 465, the Board of Company Law Administration constituted under the Companies Act, 1956 (1 of 1956) (hereafter in this section referred to as the Company Law Board) shall stand dissolved on the constitution of the Tribunal and the Appellate Tribunal:

Provided that until the Tribunal and the Appellate Tribunal is constituted, the Chairman, Vice-Chairman and Members of the Company Law Board immediately before the constitution of the Tribunal and the Appellate Tribunal, who fulfil the qualifications and requirements provided under this Act regarding appointment as President or Chairperson or Member of the Tribunal or the Appellate Tribunal, shall function as President, Chairperson or Member of the Tribunal or the Appellate Tribunal:

Provided further that every officer or other employee, who had been appointed on deputation basis to the Company Law Board, shall, on such dissolution,—

(i) become officer or employee of the Tribunal or the Appellate Tribunal, if he fulfils the qualifications and requirements under this Act; and

(ii) stand reverted to his parent cadre, Ministry or Department, in any other case:

Provided also that every officer and the other employee of the Company Law Board, employed on regular basis by that Board, shall become, on and from such dissolution the officer and other employee, respectively, of the Tribunal or the Appellate Tribunal with the same rights and privileges as to pension, gratuity and other like benefits as would have been admissible to him if he had continued to serve that Board and shall continue to do so unless and until his employment in the Tribunal or the Appellate Tribunal is duly terminated or until his remuneration, terms and conditions of employment are duly altered by the Tribunal or the Appellate Tribunal, as the case may be:

Provided also that notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947) or in any other law for the time being in force, any officer or other employee who becomes an officer or other employee of the Tribunal or the Appellate Tribunal under the preceding proviso shall not be entitled to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority:

Provided also that where the Company Law Board has established a provident fund, superannuation fund, welfare fund or other fund for the benefit of the officers and other employees employed in that Board, the monies relatable to the officers and other employees who have become officers or employees of the Tribunal or the Appellate Tribunal shall, out of the monies standing to the credit of such provident fund, superannuation fund, welfare fund or other fund, stand transferred to, and vest in, the Tribunal or the

Appellate Tribunal, as the case may be, and such monies which stand so transferred shall be dealt with by the Tribunal or the Appellate Tribunal in such manner as may be prescribed.

(2) The persons holding the offices of Chairman, Vice-Chairman and Members, and officers and other employees of the Company Law Board immediately before the constitution of the Tribunal and the Appellate Tribunal who are not covered under proviso to sub-section(1) shall vacate their respective offices on such constitution and no such Chairman, Vice-Chairman and Members and officers or other employees shall be entitled to claim any compensation for the premature termination of the term of his office or of any contract of service, if any.

467. Power of Central Government to amend Schedules.—(1) Subject to the provisions of this section, the Central Government may, by notification, alter any of the regulations, rules, Tables, forms and other provisions contained in any of the Schedules to this Act.

(2) Any alteration notified under sub-section (1) shall have effect as if enacted in this Act and shall come into force on the date of the notification, unless the notification otherwise directs:

Provided that no such alteration in Table F of Schedule I shall apply to any company registered before the date of such alteration.

(3) Every alteration made by the Central Government under sub-section (1) 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 or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the alteration, or both Houses agree that the alteration should not be made, the alteration 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 in pursuance of that alteration.

468. Powers of Central Government to make rules relating to winding up.—(1) The Central Government shall, make rules consistent with the Code of Civil Procedure, 1908 (5 of 1908) providing for all matters relating to the winding up of companies, which by this Act, are to be prescribed, and may make rules providing for all such matters, as may be prescribed.

¹[(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:—

- (i) as to the mode of proceedings to be held for winding up of a company by the Tribunal under this Act;
- (ii) for the holding of meetings of creditors and members in connection with proceedings under section 230;
- (iii) for giving effect to the provisions of this Act as to the reduction of the capital;
- (iv) generally for all applications to be made to the Tribunal under the provisions of this Act;
- (v) the holding and conducting of meetings to ascertain the wishes of creditors and contributories;
- (vi) the settling of lists of contributories and the rectifying of the register of members where required, and collecting and applying the assets;
- (vii) the payment, delivery, conveyance, surrender or transfer of money, property, books or papers to the liquidator;
- (viii) the making of calls; and
- (ix) the fixing of a time within which debts and claims shall be proved.]

(3) All rules made by the Supreme Court on the matters referred to in this section as it stood immediately before the commencement of this Act and in force at such commencement, shall continue to be in force, till such time the rules are made by the Central Government and any reference to the High Court in relation to winding up of a company in such rules shall be construed as a reference to the Tribunal.

469. Power of Central Government to make rules.—(1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

1. Subs. by Act 31 of 2016, s. 255 and the Eleventh Schedule, for sub-section (2) (w.e.f. 15-11-2016).

(2) Without prejudice to the generality of the provisions of sub-section (1), the Central Government may make rules for all or any of the matters which by this Act are required to be, or may be, prescribed or in respect of which provision is to be or may be made by rules.

(3) Any rule made under sub-section (1) may provide that a contravention thereof shall be punishable with fine which may extend to five thousand rupees and where the contravention is a continuing one, with a further fine which may extend to five hundred rupees for every day after the first during which such contravention continues.

(4) Every rule made under this section and every regulation made by Securities and Exchange Board under this Act, 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 or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation 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 or regulation.

470. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of five years from the date of commencement of section 1 of this Act.

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

SCHEDULE I
(See sections 4 and 5)

TABLE -A

MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY SHARES

- 1st The name of the company is “.....Limited / Private Limited”.
- 2nd The registered office of the company will be situated in the State of.....
- 3rd (a) The objects to be pursued by the company on its incorporation are:—
(b) Matters which are necessary for furtherance of the objects specified in clause 3(a) are:—
- 4th The liability of the member(s) is limited and this liability is limited to the amount unpaid, if any, on the shares held by them.
- 5th The share capital of the company is.....rupees, divided into.....shares of.....rupees each.
- 6th We, the several persons, whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set against our respective names:—

Names, addresses, descriptions and occupations of subscribers	No. of Shares taken by each subscriber	Signature of subscriber	Signature, names, addresses, descriptions and occupations of witnesses
A.B. of.....Merchant		Signed before me: Signature.....
C.D. of.....Merchant		Signed before me: Signature.....
E.F. of.....Merchant		Signed before me: Signature.....
G.H. of.....Merchant		Signed before me: Signature.....
I.J. of.....Merchant		Signed before me: Signature.....
K.L. of.....Merchant		Signed before me: Signature.....
M.N. of.....Merchant		Signed before me: Signature.....
Total shares taken:	_____	_____	

7th I, whose name and address is given below, am desirous of forming a company in pursuance of this memorandum of association and agree to take all the shares in the capital of the company (Applicable in case of one person company):—

Name, address, description and occupation of subscriber	Signature of subscriber	Signature, name, address, description and occupation of witness
---	-------------------------	---

A.B.Merchant	Signed before me: Signature.....
-------------------	-------------------------------------

8th Shri/Smt....., son/daughter of, resident of..... aged..... years shall be the nominee in the event of death of the sole member (Applicable in case of one person company)

Dated..... the day of

TABLE –B

MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL

1st The name of the company is “.....Limited/Private Limited”.

2nd The registered office of the company will be situated in the State of.....

3rd (a) The objects to be pursued by the company on its incorporation are:—

(b) Matters which are necessary for furtherance of the objects specified in clause 3(a) are:—

4th The liability of the member(s) is limited.

5th Every member of the company undertakes to contribute:

(i) to the assets of the company in the event of its being wound up while he is a member, or within one year after he ceases to be a member, for payment of the debts and liabilities of the company or of such debts and liabilities as may have been contracted before he ceases to be a member; and

(ii) to the costs, charges and expenses of winding up (and for the adjustment of the rights of the contributories among themselves),

such amount as may be required, not exceeding.....rupees.

6th We, the several persons, whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association.

Names, addresses, descriptions and occupations of subscribers	Signature of subscriber	Signature, names, addresses, descriptions and occupations of witnesses
---	-------------------------	--

A.B. of.....Merchant	Signed before me: Signature.....
----------------------	-------------------------------------

C.D. of.....Merchant	Signed before me: Signature.....
----------------------	-------------------------------------

E.F. of.....Merchant	Signed before me: Signature.....
----------------------	-------------------------------------

G.H. of.....Merchant	Signed before me: Signature.....
----------------------	-------------------------------------

I.J. of.....Merchant	Signed before me: Signature.....
K.L. of.....Merchant	Signed before me: Signature.....
M.N. of.....Merchant	Signed before me: Signature.....

7th I, whose name and address is given below, am desirous of forming a company in pursuance of this memorandum of association (Applicable in case of one person company):—

Name, address, description and occupation of subscriber	Signature of subscriber	Signature, name, address, description and occupation of witness
A.B.Merchant	Signed before me: Signature.....	

8th Shri/Smt....., son/daughter of, resident of..... aged..... years shall be the nominee in the event of death of the sole member (Applicable in case of one person company)
Dated..... the day of

TABLE -C

MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE AND HAVING A SHARE CAPITAL

- 1st The name of the company is “.....Limited/Private Limited”.
- 2nd The registered office of the company will be situated in the State of.....
- 3rd
 - (a) The objects to be pursued by the company on its incorporation are:—
 - (b) Matters which are necessary for furtherance of the objects specified in clause 3(a) are:—
- 4th The liability of the member(s) is limited.
- 5th Every member of the company undertakes to contribute:
 - (i) to the assets of the company in the event of its being wound up while he is a member, or within one year after he ceases to be a member, for payment of the debts and liabilities of the company or of such debts and liabilities as may have been contracted before he ceases to be a member; and
 - (ii) to the costs, charges and expenses of winding up (and for the adjustment of the rights of the contributories among themselves),
 such amount as may be required, not exceeding.....rupees.
- 6th The share capital of the company is.....rupees, divided into.....shares of.....rupees each
- 7th We, the several persons, whose names, addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association and we respectively agree to take the number of shares in the capital of the company set against our respective names:—

<u>Names, addresses, descriptions and occupations of subscribers</u>	<u>No. of Shares taken by each subscriber</u>	<u>Signature of subscriber</u>	<u>Signature, names, addresses, descriptions and occupations of witnesses</u>
A.B. of.....Merchant		Signed before me: Signature.....
C.D. of.....Merchant		Signed before me: Signature.....
E.F. of.....Merchant		Signed before me: Signature.....
G.H. of.....Merchant		Signed before me: Signature.....
I.J. of.....Merchant		Signed before me: Signature.....
K.L. of.....Merchant		Signed before me: Signature.....
M.N. of.....Merchant		Signed before me: Signature.....

8th I, whose name and address is given below, am desirous of forming a company in pursuance of this memorandum of association and agree to take all the shares in the capital of the company (Applicable in case of one person company):—

<u>Name, address, description and occupation of subscriber</u>	<u>Signature of subscriber</u>	<u>Signature, name, address, description and occupation of witness</u>
A.B. ofMerchant		Signed before me: Signature.....

9th Shri/Smt....., son/daughter of, resident of..... aged..... years shall be the nominee in the event of death of the sole member (Applicable in case of one person company)

Dated..... the day of.....

TABLE -D

MEMORANDUM OF ASSOCIATION OF AN UNLIMITED COMPANY

AND NOT HAVING SHARE CAPITAL

- 1st The name of the company is “.....Company”.
- 2nd The registered office of the company will be situated in the State of.....
- 3rd
 - (a) The objects to be pursued by the company on its incorporation are:—
 - (b) Matters which are necessary for furtherance of the objects specified in clause 3(a) are:—
- 4th The liability of the member(s) is unlimited.
- 5th We, the several persons, whose names and addresses are subscribed are desirous of being formed into a company in pursuance of this memorandum of association.

Names, addresses, descriptions and occupations of subscribers	Signature of subscriber	Signature, names, addresses, descriptions and occupations of witness
A.B. of.....Merchant		Signed before me: Signature.....
C.D. of.....Merchant		Signed before me: Signature.....
E.F. of.....Merchant		Signed before me: Signature.....
G.H. of.....Merchant		Signed before me: Signature.....
I.J. of.....Merchant		Signed before me: Signature.....
K.L. of.....Merchant		Signed before me: Signature.....
M.N. of.....Merchant		Signed before me: Signature.....

6th I, whose name and address is given below, am desirous of forming a company in pursuance of this memorandum of association (Applicable in case of one person company):—

Name, address, description and occupation of subscriber	Signature of subscriber	Signature, name, address, description and occupation of witness
A.B.Merchant		Signed before me: Signature.....

7th Shri/Smt....., son/daughter of, resident of..... aged..... years shall be the nominee in the event of death of the sole member (Applicable in case of one person company)

Dated..... the day of.....

TABLE -E

MEMORANDUM OF ASSOCIATION OF AN UNLIMITED COMPANY AND HAVING SHARE CAPITAL

- 1st The name of the company is “.....Company”.
- 2nd The registered office of the company will be situated in the State of.....
- 3rd
 - (a) The objects to be pursued by the company on its incorporation are:—
 - (b) Matters which are necessary for furtherance of the objects specified in clause 3(a) are:—

- 4th The liability of the member(s) is unlimited.
- 5th The share capital of the company is.....rupees, divided into.....shares of.....rupees each.
- 6th We, the several persons, whose names, and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association and we respectively agree to take the number of shares in the capital of the company set against our respective names:—

Names, addresses, descriptions and occupations of subscribers	No. of Shares taken by each subscriber	Signature of subscriber	Signature, names, addresses, descriptions and occupations of witnesses
A.B. of.....Merchant		Signed before me: Signature.....
C.D. of.....Merchant		Signed before me: Signature.....
E.F. of.....Merchant		Signed before me: Signature.....
G.H. of.....Merchant		Signed before me: Signature.....
I.J. of.....Merchant		Signed before me: Signature.....
K.L. of.....Merchant		Signed before me: Signature.....
M.N. of.....Merchant		Signed before me: Signature.....

- 7th I, whose name and address is given below, am desirous of forming a company in pursuance of this memorandum of association and agree to take all the shares in the capital of the company (Applicable in case of one person company):—

Name, address, description and occupation of subscriber	Signature of subscriber	Signature, name, address, description and occupation of witness
A.B.Merchant		Signed before me: Signature.....

- 8th Shri/Smt....., son/daughter of, resident of..... aged..... years shall be the nominee in the event of death of the sole member (Applicable in case of one person company)

Dated..... the day of

TABLE -F

ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY SHARES

Interpretation**I. (1)** In these regulations—

- (a) “the Act” means the Companies Act, 2013,
- (b) “the seal” means the common seal of the company.

(2) Unless the context otherwise requires, words or expressions contained in these regulations shall bear the same meaning as in the Act or any statutory modification thereof in force at the date at which these regulations become binding on the company.

Share capital and variation of rights

II. 1. Subject to the provisions of the Act and these Articles, the shares in the capital of the company shall be under the control of the Directors who may issue, allot or otherwise dispose of the same or any of them to such persons, in such proportion and on such terms and conditions and either at a premium or at par and at such time as they may from time to time think fit.

2. (i) Every person whose name is entered as a member in the register of members shall be entitled to receive within two months after incorporation, in case of subscribers to the memorandum or after allotment or within one month after the application for the registration of transfer or transmission or within such other period as the conditions of issue shall be provided,—

(a) one certificate for all his shares without payment of any charges; or

(b) several certificates, each for one or more of his shares, upon payment of twenty rupees for each certificate after the first.

¹[(ii) Every certificate shall specify the shares to which it relates and the amount paid-up thereon and shall be signed by two directors or by a director and the company secretary, wherever the company has appointed a company secretary:

Provided that in case the company has a common seal it shall be affixed in the presence of the persons required to sign the certificate.

Explanation.—For the purposes of this item, it is hereby clarified that in case of an One Person Company, it shall be sufficient if the certificate is signed by a director and the company secretary, wherever the company has appointed a company secretary, or any other person authorised by the Board for the purpose.]

(iii) In respect of any share or shares held jointly by several persons, the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all such holders.

3. (i) If any share certificate be worn out, defaced, mutilated or torn or if there be no further space on the back for endorsement of transfer, then upon production and surrender thereof to the company, a new certificate may be issued in lieu thereof, and if any certificate is lost or destroyed then upon proof thereof to the satisfaction of the company and on execution of such indemnity as the company deem adequate, a new certificate in lieu thereof shall be given. Every certificate under this Article shall be issued on payment of twenty rupees for each certificate.

(ii) The provisions of Articles (2) and (3) shall *mutatis mutandis* apply to debentures of the company.

4. Except as required by law, no person shall be recognised by the company as holding any share upon any trust, and the company shall not be bound by, or be compelled in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any share, or any interest in any fractional part of a share, or (except only as by these regulations or by law otherwise provided) any other rights in respect of any share except an absolute right to the entirety thereof in the registered holder.

1. Subs. by Notification No. G.S.R. 362(E), dated 10th April, 2018 for item (ii) in sub-paragraph (2) (w.e.f. 10-4-2018).

5. (i) The company may exercise the powers of paying commissions conferred by sub-section (6) of section 40, provided that the rate per cent. or the amount of the commission paid or agreed to be paid shall be disclosed in the manner required by that section and rules made thereunder.

(ii) The rate or amount of the commission shall not exceed the rate or amount prescribed in rules made under sub-section (6) of section 40.

(iii) The commission may be satisfied by the payment of cash or the allotment of fully or partly paid shares or partly in the one way and partly in the other.

6. (i) If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may, subject to the provisions of section 48, and whether or not the company is being wound up, be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of a special resolution passed at a separate meeting of the holders of the shares of that class.

(ii) To every such separate meeting, the provisions of these regulations relating to general meetings shall *mutatis mutandis* apply, but so that the necessary quorum shall be at least two persons holding at least one-third of the issued shares of the class in question.

7. The rights conferred upon the holders of the shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking *pari passu* therewith.

8. Subject to the provisions of section 55, any preference shares may, with the sanction of an ordinary resolution, be issued on the terms that they are to be redeemed on such terms and in such manner as the company before the issue of the shares may, by special resolution, determine.

Lien

9. (i) The company shall have a first and paramount lien—

(a) on every share (not being a fully paid share), for all monies (whether presently payable or not) called, or payable at a fixed time, in respect of that share; and

(b) on all shares (not being fully paid shares) standing registered in the name of a single person, for all monies presently payable by him or his estate to the company:

Provided that the Board of directors may at any time declare any share to be wholly or in part exempt from the provisions of this clause.

(ii) The company's lien, if any, on a share shall extend to all dividends payable and bonuses declared from time to time in respect of such shares.

10. The company may sell, in such manner as the Board thinks fit, any shares on which the company has a lien:

Provided that no sale shall be made—

(a) unless a sum in respect of which the lien exists is presently payable; or

(b) until the expiration of fourteen days after a notice in writing stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share or the person entitled thereto by reason of his death or insolvency.

11. (i) To give effect to any such sale, the Board may authorise some person to transfer the shares sold to the purchaser thereof.

(ii) The purchaser shall be registered as the holder of the shares comprised in any such transfer.

(iii) The purchaser shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

12. (i) The proceeds of the sale shall be received by the company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable.

(ii) The residue, if any, shall, subject to a like lien for sums not presently payable as existed upon the shares before the sale, be paid to the person entitled to the shares at the date of the sale.

Calls on shares

13. (i) The Board may, from time to time, make calls upon the members in respect of any monies unpaid on their shares (whether on account of the nominal value of the shares or by way of premium) and not by the conditions of allotment thereof made payable at fixed times:

Provided that no call shall exceed one-fourth of the nominal value of the share or be payable at less than one month from the date fixed for the payment of the last preceding call.

(ii) Each member shall, subject to receiving at least fourteen days' notice specifying the time or times and place of payment, pay to the company, at the time or times and place so specified, the amount called on his shares.

(iii) A call may be revoked or postponed at the discretion of the Board.

14. A call shall be deemed to have been made at the time when the resolution of the Board authorising the call was passed and may be required to be paid by instalments.

15. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

16. (i) If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest thereon from the day appointed for payment thereof to the time of actual payment at ten per cent. per annum or at such lower rate, if any, as the Board may determine.

(ii) The Board shall be at liberty to waive payment of any such interest wholly or in part.

17. (i) Any sum which by the terms of issue of a share becomes payable on allotment or at any fixed date, whether on account of the nominal value of the share or by way of premium, shall, for the purposes of these regulations, be deemed to be a call duly made and payable on the date on which by the terms of issue such sum becomes payable.

(ii) In case of non-payment of such sum, all the relevant provisions of these regulations as to payment of interest and expenses, forfeiture or otherwise shall apply as if such sum had become payable by virtue of a call duly made and notified.

18. The Board—

(a) may, if it thinks fit, receive from any member willing to advance the same, all or any part of the monies uncalled and unpaid upon any shares held by him; and

(b) upon all or any of the monies so advanced, may (until the same would, but for such advance, become presently payable) pay interest at such rate not exceeding, unless the company in general meeting shall otherwise direct, twelve per cent. per annum, as may be agreed upon between the Board and the member paying the sum in advance.

Transfer of shares

19. (i) The instrument of transfer of any share in the company shall be executed by or on behalf of both the transferor and transferee.

(ii) The transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.

20. The Board may, subject to the right of appeal conferred by section 58 decline to register—

(a) the transfer of a share, not being a fully paid share, to a person of whom they do not approve; or

(b) any transfer of shares on which the company has a lien.

21. The Board may decline to recognise any instrument of transfer unless—

(a) the instrument of transfer is in the form as prescribed in rules made under sub-section (1) of section 56;

(b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer; and

(c) the instrument of transfer is in respect of only one class of shares.

22. On giving not less than seven days' previous notice in accordance with section 91 and rules made thereunder, the registration of transfers may be suspended at such times and for such periods as the Board may from time to time determine:

Provided that such registration shall not be suspended for more than thirty days at any one time or for more than forty-five days in the aggregate in any year.

Transmission of shares

23. (i) On the death of a member, the survivor or survivors where the member was a joint holder, and his nominee or nominees or legal representatives where he was a sole holder, shall be the only persons recognised by the company as having any title to his interest in the shares.

(ii) Nothing in clause (i) shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by him with other persons.

24. (i) Any person becoming entitled to a share in consequence of the death or insolvency of a member may, upon such evidence being produced as may from time to time properly be required by the Board and subject as hereinafter provided, elect, either—

(a) to be registered himself as holder of the share; or

(b) to make such transfer of the share as the deceased or insolvent member could have made.

(ii) The Board shall, in either case, have the same right to decline or suspend registration as it would have had, if the deceased or insolvent member had transferred the share before his death or insolvency.

25. (i) If the person so becoming entitled shall elect to be registered as holder of the share himself, he shall deliver or send to the company a notice in writing signed by him stating that he so elects.

(ii) If the person aforesaid shall elect to transfer the share, he shall testify his election by executing a transfer of the share.

(iii) All the limitations, restrictions and provisions of these regulations relating to the right to transfer and the registration of transfers of shares shall be applicable to any such notice or transfer as aforesaid as if the death or insolvency of the member had not occurred and the notice or transfer were a transfer signed by that member.

26. A person becoming entitled to a share by reason of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would have been entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company:

Provided that the Board may, at any time, give notice requiring any such person to elect either to be registered himself or to transfer the share, and if the notice is not complied with within ninety days, the Board may thereafter withhold payment of all dividends, bonuses or other monies payable in respect of the share, until the requirements of the notice have been complied with.

27. In case of a One Person Company—

(i) on the death of the sole member, the person nominated by such member shall be the person recognised by the company as having title to all the shares of the member;

(ii) the nominee on becoming entitled to such shares in case of the member's death shall be informed of such event by the Board of the company;

(iii) such nominee shall be entitled to the same dividends and other rights and liabilities to which such sole member of the company was entitled or liable;

(iv) on becoming member, such nominee shall nominate any other person with the prior written consent of such person who, shall in the event of the death of the member, become the member of the company.

Forfeiture of shares

28. If a member fails to pay any call, or instalment of a call, on the day appointed for payment thereof, the Board may, at any time thereafter during such time as any part of the call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

29. The notice aforesaid shall—

(a) name a further day (not being earlier than the expiry of fourteen days from the date of service of the notice) on or before which the payment required by the notice is to be made; and

(b) state that, in the event of non-payment on or before the day so named, the shares in respect of which the call was made shall be liable to be forfeited.

30. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may, at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the Board to that effect.

31. (i) A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Board thinks fit.

(ii) At any time before a sale or disposal as aforesaid, the Board may cancel the forfeiture on such terms as it thinks fit.

32. (i) A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding the forfeiture, remain liable to pay to the company all monies which, at the date of forfeiture, were presently payable by him to the company in respect of the shares.

(ii) The liability of such person shall cease if and when the company shall have received payment in full of all such monies in respect of the shares.

33. (i) A duly verified declaration in writing that the declarant is a director, the manager or the secretary, of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share;

(ii) The company may receive the consideration, if any, given for the share on any sale or disposal thereof and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of;

(iii) The transferee shall thereupon be registered as the holder of the share; and

(iv) The transferee shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.

34. The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the nominal value of the share or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

Alteration of capital

35. The company may, from time to time, by ordinary resolution increase the share capital by such sum, to be divided into shares of such amount, as may be specified in the resolution.

36. Subject to the provisions of section 61, the company may, by ordinary resolution,—

(a) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;

(b) convert all or any of its fully paid-up shares into stock, and reconver that stock into fully paid-up shares of any denomination;

(c) sub-divide its existing shares or any of them into shares of smaller amount than is fixed by the memorandum;

(d) cancel any shares which, at the date of the passing of the resolution, have-not been taken or agreed to be taken by any person.

37. Where shares are converted into stock,—

(a) the holders of stock may transfer the same or any part thereof in the same manner as, and subject to the same regulations under which, the shares from which the stock arose might before the conversion have been transferred, or as near thereto as circumstances admit:

Provided that the Board may, from time to time, fix the minimum amount of stock transferable, so, however, that such minimum shall not exceed the nominal amount of the shares from which the stock arose.

(b) the holders of stock shall, according to the amount of stock held by them, have the same rights, privileges and advantages as regards dividends, voting at meetings of the company, and other matters, as if they held the shares from which the stock arose; but no such privilege or advantage (except participation in the dividends and profits of the company and in the assets on winding up) shall be conferred by an amount of stock which would not, if existing in shares, have conferred that privilege or advantage.

(c) such of the regulations of the company as are applicable to paid-up shares shall apply to stock and the words "share" and "shareholder" in those regulations shall include "stock" and "stock-holder" respectively.

38. The company may, by special resolution, reduce in any manner and with, and subject to, any incident authorised and consent required by law,—

(a) its share capital;

(b) any capital redemption reserve account; or

(c) any share premium account.

Capitalisation of profits

39. (i) The company in general meeting may, upon the recommendation of the Board, resolve—

(a) that it is desirable to capitalise any part of the amount for the time being standing to the credit of any of the company's reserve accounts, or to the credit of the profit and loss account, or otherwise available for distribution; and

(b) that such sum be accordingly set free for distribution in the manner specified in clause (ii) amongst the members who would have been entitled thereto, if distributed by way of dividend and in the same proportions.

(ii) The sum aforesaid shall not be paid in cash but shall be applied, subject to the provision contained in clause (iii), either in or towards—

(A) paying up any amounts for the time being unpaid on any shares held by such members respectively;

(B) paying up in full, unissued shares of the company to be allotted and distributed, credited as fully paid-up, to and amongst such members in the proportions aforesaid;

(C) partly in the way specified in sub-clause (A) and partly in that specified in sub-clause (B);

(D) A securities premium account and a capital redemption reserve account may, for the purposes of this regulation, be applied in the paying up of unissued shares to be issued to members of the company as fully paid bonus shares;

(E) The Board shall give effect to the resolution passed by the company in pursuance of this regulation.

40. (i) Whenever such a resolution as aforesaid shall have been passed, the Board shall—

(a) make all appropriations and applications of the undivided profits resolved to be capitalised thereby, and all allotments and issues of fully paid shares if any; and

(b) generally do all acts and things required to give effect thereto.

(ii) The Board shall have power—

(a) to make such provisions, by the issue of fractional certificates or by payment in cash or otherwise as it thinks fit, for the case of shares becoming distributable infractions; and

(b) to authorise any person to enter, on behalf of all the members entitled thereto, into an agreement with the company providing for the allotment to them respectively, credited as fully paid-up, of any further shares to which they may be entitled upon such capitalisation, or as the case may require, for the payment by the company on their behalf, by the application thereto of their respective proportions of profits resolved to be capitalised, of the amount or any part of the amounts remaining unpaid on their existing shares;

(iii) any agreement made under such authority shall be effective and binding on such members.

Buy-back of shares

41. Notwithstanding anything contained in these articles but subject to the provisions of sections 68 to 70 and any other applicable provision of the Act or any other law for the time being in force, the company may purchase its own shares or other specified securities.

General meetings

42. All general meetings other than annual general meeting shall be called extraordinary general meeting.

43. (i) The Board may, whenever it thinks fit, call an extraordinary general meeting.

(ii) If at any time directors capable of acting who are sufficient in number to form a quorum are not within India, any director or any two members of the company may call an extraordinary general meeting in the same manner, as nearly as possible, as that in which such a meeting may be called by the Board.

Proceedings at general meetings

44. (i) No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.

(ii) Save as otherwise provided herein, the quorum for the general meetings shall be as provided in section 103.

45. The Chairperson, if any, of the Board shall preside as Chairperson at every general meeting of the company.

46. If there is no such Chairperson, or if he is not present within fifteen minutes after the time appointed for holding the meeting, or is unwilling to act as Chairperson of the meeting, the directors present shall elect one of their members to be Chairperson of the meeting.

47. If at any meeting no director is willing to act as Chairperson or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose one of their members to be Chairperson of the meeting.

48. In case of a One Person Company—

(i) the resolution required to be passed at the general meetings of the company shall be deemed to have been passed if the resolution is agreed upon by the sole member and communicated to the company and entered in the minutes book maintained under section 118;

(ii) such minutes book shall be signed and dated by the member;

(iii) the resolution shall become effective from the date of signing such minutes by the sole member.

Adjournment of meeting

49. (i) The Chairperson may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place.

(ii) No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(iii) When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.

(iv) Save as aforesaid, and as provided in section 103 of the Act, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

Voting rights

50. Subject to any rights or restrictions for the time being attached to any class or classes of shares,—

(a) on a show of hands, every member present in person shall have one vote; and

(b) on a poll, the voting rights of members shall be in proportion to his share in the paid-up equity share capital of the company.

51. A member may exercise his vote at a meeting by electronic means in accordance with section 108 and shall vote only once.

52. (i) In the case of joint holders, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders.

(ii) For this purpose, seniority shall be determined by the order in which the names stand in the register of members.

53. A member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee or other legal guardian, and any such committee or guardian may, on a poll, vote by proxy.

54. Any business other than that upon which a poll has been demanded may be proceeded with, pending the taking of the poll.

55. No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid.

56. (i) No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes.

(ii) Any such objection made in due time shall be referred to the Chairperson of the meeting, whose decision shall be final and conclusive.

Proxy

57. The instrument appointing a proxy and the power-of-attorney or other authority, if any, under which it is signed or a notarised copy of that power or authority, shall be deposited at the registered office of the company not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll; and in default the instrument of proxy shall not be treated as valid.

58. An instrument appointing a proxy shall be in the form as prescribed in the rules made under section 105.

59. A vote given in accordance with the terms of an instrument of proxy shall be valid, notwithstanding the previous death or insanity of the principal or the revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the shares in respect of which the proxy is given:

Provided that no intimation in writing of such death, insanity, revocation or transfer shall have been received by the company at its office before the commencement of the meeting or adjourned meeting at which the proxy is used.

Board of Directors

60. The number of the directors and the names of the first directors shall be determined in writing by the subscribers of the memorandum or a majority of them.

61. (i) The remuneration of the directors shall, in so far as it consists of a monthly payment, be deemed to accrue from day-to-day.

(ii) In addition to the remuneration payable to them in pursuance of the Act, the directors may be paid all travelling, hotel and other expenses properly incurred by them—

(a) in attending and returning from meetings of the Board of Directors or any committee thereof or general meetings of the company; or

(b) in connection with the business of the company.

62. The Board may pay all expenses incurred in getting up and registering the company.

63. The company may exercise the powers conferred on it by section 88 with regard to the keeping of a foreign register; and the Board may (subject to the provisions of that section) make and vary such regulations as it may think fit respecting the keeping of any such register.

64. All cheques, promissory notes, drafts, *hundis*, bills of exchange and other negotiable instruments, and all receipts for monies paid to the company, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, by such person and in such manner as the Board shall from time to time by resolution determine.

65. Every director present at any meeting of the Board or of a committee thereof shall sign his name in a book to be kept for that purpose.

66. (i) Subject to the provisions of section 149, the Board shall have power at any time, and from time to time, to appoint a person as an additional director, provided the number of the directors and additional directors together shall not at any time exceed the maximum strength fixed for the Board by the articles.

(ii) Such person shall hold office only up to the date of the next annual general meeting of the company but shall be eligible for appointment by the company as a director at that meeting subject to the provisions of the Act.

Proceedings of the Board

67. (i) The Board of Directors may meet for the conduct of business, adjourn and otherwise regulate its meetings, as it thinks fit.

(ii) A director may, and the manager or secretary on the requisition of a director shall, at any time, summon a meeting of the Board.

68. (i) Save as otherwise expressly provided in the Act, questions arising at any meeting of the Board shall be decided by a majority of votes.

(ii) In case of an equality of votes, the Chairperson of the Board, if any, shall have a second or casting vote.

69. The continuing directors may act notwithstanding any vacancy in the Board; but, if and so long as their number is reduced below the quorum fixed by the Act for a meeting of the Board, the continuing directors or director may act for the purpose of increasing the number of directors to that fixed for the quorum, or of summoning a general meeting of the company, but for no other purpose.

70. (i) The Board may elect a Chairperson of its meetings and determine the period for which he is to hold office.

(ii) If no such Chairperson is elected, or if at any meeting the Chairperson is not present within five minutes after the time appointed for holding the meeting, the directors present may choose one of their number to be Chairperson of the meeting.

71. (i) The Board may, subject to the provisions of the Act, delegate any of its powers to committees consisting of such member or members of its body as it thinks fit.

(ii) Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Board.

72. (i) A committee may elect a Chairperson of its meetings.

(ii) If no such Chairperson is elected, or if at any meeting the Chairperson is not present within five minutes after the time appointed for holding the meeting, the members present may choose one of their members to be Chairperson of the meeting.

73. (i) A committee may meet and adjourn as it thinks fit.

(ii) Questions arising at any meeting of a committee shall be determined by a majority of votes of the members present, and in case of an equality of votes, the Chairperson shall have a second or casting vote.

74. All acts done in any meeting of the Board or of a committee thereof or by any person acting as a director, shall, notwithstanding that it may be afterwards discovered that there was some defect in the appointment of any one or more of such directors or of any person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such director or such person had been duly appointed and was qualified to be a director.

75. Save as otherwise expressly provided in the Act, a resolution in writing, signed by all the members of the Board or of a committee thereof, for the time being entitled to receive notice of a meeting of the Board or committee, shall be valid and effective as if it had been passed at a meeting of the Board or committee, duly convened and held.

76. In case of a One Person Company—

(i) where the company is having only one director, all the businesses to be transacted at the meeting of the Board shall be entered into minutes book maintained under section 118;

(ii) such minutes book shall be signed and dated by the director;

(iii) the resolution shall become effective from the date of signing such minutes by the director.

Chief Executive Officer, Manager, Company Secretary or Chief Financial Officer

77. Subject to the provisions of the Act,—

(i) A chief executive officer, manager, company secretary or chief financial officer may be appointed by the Board for such term, at such remuneration and upon such conditions as it may think fit; and any chief executive officer, manager, company secretary or chief financial officer so appointed may be removed by means of a resolution of the Board;

(ii) A director may be appointed as chief executive officer, manager, company secretary or chief financial officer.

78. A provision of the Act or these regulations requiring or authorising a thing to be done by or to a director and chief executive officer, manager, company secretary or chief financial officer shall not be satisfied by its being done by or to the same person acting both as director and as, or in place of, chief executive officer, manager, company secretary or chief financial officer.

The Seal

79. (i) The Board shall provide for the safe custody of the seal.

(ii) The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the Board or of a committee of the Board authorised by it in that behalf, and except in the presence of at least two directors and of the secretary or such other person as the Board may appoint for the purpose; and those two directors and the secretary or other person aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.

¹[*Explanation.*—For the purposes of this sub-paragraph it is hereby clarified that on and from the commencement of the Companies (Amendment) Act, 2015 (21 of 2015), i.e. with effect from the 29th May, 2015, company may not be required to have the seal by virtue of registration under the Act and if a company does not have the seal, the provisions of this sub-paragraph shall not be applicable.]

Dividends and Reserve

80. The company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the Board.

81. Subject to the provisions of section 123, the Board may from time to time pay to the members such interim dividends as appear to it to be justified by the profits of the company.

82. (i) The Board may, before recommending any dividend, set aside out of the profits of the company such sums as it thinks fit as a reserve or reserves which shall, at the discretion of the Board, be applicable for any purpose to which the profits of the company may be properly applied, including provision for meeting contingencies or for equalizing dividends; and pending such application, may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the Board may, from time to time, thinks fit.

(ii) The Board may also carry forward any profits which it may consider necessary not to divide, without setting them aside as a reserve.

83. (i) Subject to the rights of persons, if any, entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid or credited as paid on the shares in respect whereof the dividend is paid, but if and so long as nothing is paid upon any of the shares in the company, dividends may be declared and paid according to the amounts of the shares.

(ii) No amount paid or credited as paid on a share in advance of calls shall be treated for the purposes of this regulation as paid on the share.

(iii) All dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the shares during any portion or portions of the period in respect of which the dividend is paid; but if any share is issued on terms providing that it shall rank for dividend as from a particular date such share shall rank for dividend accordingly.

84. The Board may deduct from any dividend payable to any member all sums of money, if any, presently payable by him to the company on account of calls or otherwise in relation to the shares of the company.

85. (i) Any dividend, interest or other monies payable in cash in respect of shares may be paid by cheque or warrant sent through the post directed to the registered address of the holder or, in the case of joint holders, to the registered address of that one of the joint holders who is first named on the register of members, or to such person and to such address as the holder or joint holders may in writing direct.

(ii) Every such cheque or warrant shall be made payable to the order of the person to whom it is sent.

86. Any one of two or more joint holders of a share may give effective receipts for any dividends, bonuses or other monies payable in respect of such share.

1. The *Explanation* ins. by Notification No. G.S.R. 362(E) dated 10th April, 2018 (w.e.f. 10-4-2018).

87. Notice of any dividend that may have been declared shall be given to the persons entitled to share therein in the manner mentioned in the Act.

88. No dividend shall bear interest against the company.

Accounts

89. (i) The Board shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations, the accounts and books of the company, or any of them, shall be open to the inspection of members not being directors.

(ii) No member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by law or authorised by the Board or by the company in general meeting.

Winding up

90. Subject to the provisions of Chapter XX of the Act and rules made thereunder—

(i) If the company shall be wound up, the liquidator may, with the sanction of a special resolution of the company and any other sanction required by the Act, divide amongst the members, in specie or kind, the whole or any part of the assets of the company, whether they shall consist of property of the same kind or not.

(ii) For the purpose aforesaid, the liquidator may set such value as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the members or different classes of members.

(iii) The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributors if he considers necessary, but so that no member shall be compelled to accept any shares or other securities whereon there is any liability.

Indemnity

91. Every officer of the company shall be indemnified out of the assets of the company against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in which relief is granted to him by the court or the Tribunal.

Note: The Articles shall be signed by each subscriber of the memorandum of association who shall add his address, description and occupation, if any, in the presence of at least one witness who shall attest the signature and shall likewise add his address, description and occupation, if any, and such signatures shall be in form specified below:

Names, addresses, descriptions and occupations of subscribers	Witnesses (along with names, addresses, descriptions and occupations)
A.B. of.....Merchant	Signed before me Signature.....
C.D. of.....Merchant	Signed before me Signature.....
E.F. of..... Merchant	Signed before me Signature.....
G.H. of.....Merchant	Signed before me Signature.....

I.J. of.....Merchant	Signed before me Signature.....
K.L. of.....Merchant	Signed before me Signature.....
M.N. of.....Merchant	Signed before me Signature.....

Dated the.....day of20.....

Place:

TABLE – G

ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE AND HAVING A SHARE CAPITAL

1. The number of members with which the company proposes to be registered is hundred, but the Board of Directors may, from time to time, register an increase of members.
2. All the articles of Table F in Schedule I annexed to the Companies Act, 2013 shall be deemed to be incorporated with these articles and to apply to the company.

TABLE - H

ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE AND NOT HAVING SHARE CAPITAL

Interpretation

I. (1) In these regulations—

- (a) “the Act” means the Companies Act, 2013;
- (b) “the seal” means the common seal of the company.

(2) Unless the context otherwise requires, words or expressions contained in these regulations shall have the same meaning as in the Act or any statutory modification thereof in force at the date at which these regulations become binding on the company.

Members

II. 1. The number of members with which the company proposes to be registered is hundred, but the Board of Directors may, from time to time, whenever the company or the business of the company requires it, register an increase of members.

2. The subscribers to the memorandum and such other persons as the Board shall admit to membership shall be members of the company.

General meetings

3. All general meetings other than annual general meeting shall be called extraordinary general meeting.

4. (i) The Board may, whenever it thinks fit, call an extraordinary general meeting.

(ii) If at any time directors capable of acting who are sufficient in number to form a quorum are not within India, any director or any two members of the company may call an extraordinary general meeting in the same manner, as nearly as possible, as that in which such a meeting may be called by the Board.

Proceedings at general meetings

5. (i) No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.

(ii) Save as otherwise provided herein, the quorum for the general meetings shall be as provided in section 103.

6. The Chairperson, if any, of the Board shall preside as Chairperson at every general meeting of the company.

7. If there is no such Chairperson, or if he is not present within fifteen minutes after the time appointed for holding the meeting, or is unwilling to act as Chairperson of the meeting, the directors present shall elect one of their members to be Chairperson of the meeting.

8. If at any meeting no director is willing to act as Chairperson or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose one of their members to be Chairperson of the meeting.

Adjournment of meeting

9. (i) The Chairperson may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place.

(ii) No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(iii) When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.

(iv) Save as aforesaid, and as provided in section 103 of the Act, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

Voting rights

10. Every member shall have one vote.

11. A member of unsound mind, or in respect of whom an order has been made by any Court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee or other legal guardian, and any such committee or guardian may, on a poll, vote by proxy.

12. No member shall be entitled to vote at any general meeting unless all sums presently payable by him to the company have been paid.

13. (i) No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes.

(ii) Any such objection made in due time shall be referred to the Chairperson of the meeting, whose decision shall be final and conclusive.

14. A vote given in accordance with the terms of an instrument of proxy shall be valid, notwithstanding the previous death or insanity of the principal or the revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the shares in respect of which the proxy is given:

Provided that no intimation in writing of such death, insanity, revocation or transfer shall have been received by the company at its office before the commencement of the meeting or adjourned meeting at which the proxy is used.

15. A member may exercise his vote at a meeting by electronic means in accordance with section 108 and shall vote only once.

16. Any business other than that upon which a poll has been demanded may be proceeded with, pending the taking of the poll.

Board of Directors

17. The number of the directors and the names of the first directors shall be determined in writing by the subscribers of the memorandum or a majority of them.

18. (i) The remuneration of the directors shall, in so far as it consists of a monthly payment, be deemed to accrue from day-to-day.

(ii) In addition to the remuneration payable to them in pursuance of the Act, the directors may be paid all travelling, hotel and other expenses properly incurred by them—

(a) in attending and returning from meetings of the Board of Directors or any committee thereof or general meetings of the company; or

(b) in connection with the business of the company.

Proceedings of the Board

19. (i) The Board of Directors may meet for the conduct of business, adjourn and otherwise regulate its meetings, as it thinks fit.

(ii) A director may, and the manager or secretary on the requisition of a director shall, at any time, summon a meeting of the Board.

20. (i) Save as otherwise expressly provided in the Act, questions arising at any meeting of the Board shall be decided by a majority of votes.

(ii) In case of an equality of votes, the Chairperson of the Board, if any, shall have a second or casting vote.

21. The continuing directors may act notwithstanding any vacancy in the Board; but, if and so long as their number is reduced below the quorum fixed by the Act for a meeting of the Board, the continuing directors or director may act for the purpose of increasing the number of directors to that fixed for the quorum, or of summoning a general meeting of the company, but for no other purpose.

22. (i) The Board may elect a Chairperson of its meetings and determine the period for which he is to hold office.

(ii) If no such Chairperson is elected, or if at any meeting the Chairperson is not present within five minutes after the time appointed for holding the meeting, the directors present may choose one of their members to be Chairperson of the meeting.

23. (i) The Board may, subject to the provisions of the Act, delegate any of its powers to committees consisting of such member or members of its body as it thinks fit.

(ii) Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Board.

24. (i) A committee may elect a Chairperson of its meetings.

(ii) If no such Chairperson is elected, or if at any meeting the Chairperson is not present within five minutes after the time appointed for holding the meeting, the members present may choose one of their members to be Chairperson of the meeting.

25. (i) A committee may meet and adjourn as it thinks proper.

(ii) Questions arising at any meeting of a committee shall be determined by a majority of votes of the members present, and in case of an equality of votes, the Chairman shall have a second or casting vote.

26. All acts done by any meeting of the Board or of a committee thereof or by any person acting as a director, shall, notwithstanding that it may be afterwards discovered that there was some defect in the appointment of any one or more of such directors or of any person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such director or such person had been duly appointed and was qualified to be a director.

27. Save as otherwise expressly provided in the Act, a resolution in writing, signed by all the members of the Board or of a committee thereof, for the time being entitled to receive notice of a meeting of the Board or committee, shall be as valid and effective as if it had been passed at a meeting of the Board or committee, duly convened and held.

***Chief Executive Officer, Manager, Company Secretary or
Chief Financial Officer***

28. Subject to the provisions of the Act,—

(i) A chief executive officer, manager, company secretary or chief financial officer may be appointed by the Board for such term, at such remuneration and upon such conditions as it thinks fit; and any chief executive officer, manager, company secretary or chief financial officer so appointed may be removed by means of a resolution of the Board.

(ii) A director may be appointed as chief executive officer, manager, company secretary or chief financial officer.

29. A provision of the Act or these regulations requiring or authorising a thing to be done by or to a director and chief executive officer, manager, company secretary or chief financial officer shall not be satisfied by its being done by or to the same person acting both as director and as, or in place of, chief executive officer, manager, company secretary or chief financial officer.

The Seal

30. (i) The Board shall provide for the safe custody of the seal.

(ii) The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the Board or of a committee of the Board authorised by it in that behalf, and except in the presence of at least two directors and of the secretary or such other person as the Board may appoint for the purpose; and those two directors and the secretary or other person aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.

¹[*Explanation.—For the purposes of this sub-paragraph it is hereby clarified that on and from the commencement of the Companies (Amendment) Act, 2015 (21 of 2015), i.e. with effect from the 29th May, 2015, company may not be required to have the seal by virtue of registration under the Act and if a company does not have the seal, the provisions of this sub-paragraph shall not be applicable.]*

Note: The Articles shall be signed by each subscriber of the memorandum of association who shall add his address, description and occupation, if any, in the presence of at least one witness who shall attest the signature and shall likewise add his address, description and occupation, if any, and such signatures shall be in form specified below:

Names, addresses, descriptions and occupations of subscribers	Witnesses (along with names, addresses, descriptions and occupations)
A.B. of.....Merchant	Signed before me Signature.....
C.D. of.....Merchant	Signed before me Signature.....
E.F. of..... Merchant	Signed before me Signature.....
G.H. of.....Merchant	Signed before me Signature.....
I.J. of.....Merchant	Signed before me Signature.....
K.L. of.....Merchant	Signed before me Signature.....
M.N. of.....Merchant	Signed before me

1. The *Explanation* ins. by Notification No. G.S.R. 362(E), dated 10th April 2018 (w.e.f. 10-4-2018).

Signature.....

Dated the.....day of20.....

Place:

TABLE – I
ARTICLES OF ASSOCIATION OF AN UNLIMITED COMPANY AND
HAVING A SHARE CAPITAL

1. The number of members with which the company proposes to be registered is hundred, but the Board of Directors may, from time to time, register an increase of members.

2. All the articles of Table F in Schedule I annexed to the Companies Act, 2013 shall be deemed to be incorporated with these articles and to apply to the company.

TABLE - J
ARTICLES OF ASSOCIATION OF AN UNLIMITED COMPANY AND
NOT HAVING SHARE CAPITAL

1. The number of members with which the company proposes to be registered is hundred, but the Board of Directors may, from time to time, whenever the company or the business of the company requires it, register an increase of members.

2. The subscribers to the memorandum and such other persons as the Board shall admit to membership shall be members of the company.

3. All the articles of Table H in Schedule I annexed to the Companies Act, 2013 shall be deemed to be incorporated with these articles and to apply to the company.

SCHEDULE II
(See section 123)

USEFUL LIVES TO COMPUTE DEPRECIATION

PART 'A'

1. Depreciation is the systematic allocation of the depreciable amount of an asset over its useful life. The depreciable amount of an asset is the cost of an asset or other amount substituted for cost, less its residual value. The useful life of an asset is the period over which an asset is expected to be available for use by an entity, or the number of production or similar units expected to be obtained from the asset by the entity.

2. For the purpose of this Schedule, the term depreciation includes amortisation.

3. Without prejudice to the foregoing provisions of paragraph 1,—

¹[(i) The useful life of an asset shall not ordinarily be different from the useful life specified in Part C and the residual value of an asset shall not be more than five per cent. of the original cost of the asset:

Provided that where a company adopts a useful life different from what is specified in Part C or uses a residual value different from the limit specified above, the financial statements shall disclose such difference and provide justification in this behalf duly supported by technical advice.]

²[³For intangible assets, the relevant Indian Accounting Standards (Ind As) shall apply. Where a company is not required to comply with the Indian Accounting Standards (Ind As), it shall comply with relevant Accounting Standards under Companies (Accounting Standards) Rules, 2006] except in case of intangible assets (Toll Roads) created under 'Build, Operate and Transfer', 'Build, Own, Operate and Transfer' or any other form of public private partnership route in case of road projects. Amortisation in such cases may be done as follows:—

(a) Mode of amortization

Amortisation Rate =	x 100
Amortisation Amount=	<hr/>
Cost of Intangible Assets (A) x	<hr/>
	Actual Revenue for the year (B)
	<hr/>
	Projected Revenue from Intangible Asset (till the end of the concession period) (C)

(b) Meaning of particulars are as follows :—

Cost of Intangible Assets (A)	= Cost incurred by the company in accordance with the accounting standards.
Actual Revenue for the year (13)	= Actual revenue (Toll Charges) received during the accounting year.
Projected Revenue from Intangible Asset (C)	Total projected revenue from the Intangible Assets as provided to the project lender at the time of financial closure/agreement.

The amortisation amount or rate should ensure that the whole of the cost of the intangible asset is amortised over the concession period.

1. Subs. by Notification No. G.S.R. 627(E) dated 29th August 2014, for sub-paragraph (i) of paragraph 3 (w.e.f. 29-8-2014).
 2. Subs. by Notification No. G.S.R. 237(E), dated 31st March 2014, for sub-paragraph (i) to (iii) of paragraph 3(w.e.f. 1-4-2014).
 3. Subs. by Notification No. G.S.R. 1075(E), dated 17th November 2016 for sub-paragraph (iii) of paragraph 3 (w.e.f. 1-4-2016).

Revenue shall be reviewed at the end of each financial year and projected revenue shall be adjusted to reflect such changes, if any, in the estimates as will lead to the actual collection at the end of the concession period.

(c) Example:—

Cost of creation of Intangible Assets	:	Rs. 500 Crores
Total period of Agreement	:	20 Years
Time used for creation of Intangible Assets	:	2 Years
Intangible Assets to be amortised in	:	18 Years

Assuming that the Total revenue to be generated out of Intangible Assets over the period would be Rs. 600 Crores, in the following manner:—

Year No.	Revenue(In Rs. Crores)	Remarks
Year 1	5	Actual
Year 2	7.5	Estimate *
Year 3	10	Estimate *
Year 4	12.5	Estimate *
Year 5	17.5	Estimate *
Year 6	20	Estimate *
Year 7	23	Estimate *
Year 8	27	Estimate *
Year 9	31	Estimate *
Year 10	34	Estimate *
Year 11	38	Estimate *
Year 12	41	Estimate *
Year 13	46	Estimate *
Year 14	50	Estimate *
Year 15	53	Estimate *
Year 16	57	Estimate *
Year 17	60	Estimate *
Year 18	67.5	Estimate *
Total	600	

“*” will be actual at the end of financial year.

Based on this the charge for first year would be Rs. 4.16 Crore (approximately) (*i.e.* Rs. 5/Rs. 600 x Rs. 500 Crores) which would be charged to profit and loss and 0.83% (*i.e.* Rs. 4.16 Crore/ Rs. 500 Crore x 100) is the amortisation rate for the first year.

Where a company arrives at the amortisation amount in respect of the said Intangible Assets in accordance with any method as per the applicable Accounting Standards, it shall disclose the same.]

PART ‘B’

4. The useful life or residual value of any specific asset, as notified for accounting purposes by a Regulatory Authority constituted under an Act of Parliament or by the Central Government shall be applied in calculating the depreciation to be provided for such asset irrespective of the requirements of this Schedule.

PART 'C'

5. Subject to Parts A and B above, the following are the useful lives of various tangible assets:

Nature of assets	Useful Life
I. Buildings [NESD]	
(a) Buildings (other than factory buildings) RCC Frame Structure	60 Years
(b) Buildings (other than factory buildings) other than RCC Frame Structure	30 Years
(c) Factory buildings	-do-
(d) Fences, wells, tube wells	5 Years
(e) Others (including temporary structure, etc.)	3 Years
II. Bridges, culverts, bunders, etc. [NESD]	30 Years
III. Roads [NESD]	
(a) Carpeted roads	
(i) Carpeted Roads-RCC	10 Years
(ii) Carpeted Roads-other than RCC	5 Years
(b) Non-carpeted roads	3 Years
IV. Plant and Machinery	
(i) General rate applicable to plant and machinery not covered under special plant and machinery	
(a) Plant and Machinery other than continuous process plant not covered under specific industries	15 Years
¹ [(b) continuous process plant for which no special rate has been prescribed under (ii) below [NESD]	25 Years]
(ii) Special Plant and Machinery	
(a) Plant and Machinery related to production and exhibition of Motion Picture Films	
1. Cinematograph films—Machinery used in the production and exhibition of cinematograph films, recording and reproducing equipments, developing machines, printing machines, editing machines, synchronizers and studio lights except bulbs	13 Years
2. Projecting equipment for exhibition of films	-do-
(b) Plant and Machinery used in glass manufacturing	
1. Plant and Machinery except direct fire glass melting furnaces —Recuperative and regenerative glass melting furnaces	13 Years
2. Plant and Machinery except direct fire glass melting furnaces —Moulds[NESD]	8 Years
3. Float Glass Melting Furnaces [NESD]	10 Years
(c) Plant and Machinery used in mines and quarries—Portable underground machinery and earth moving machinery used in open cast mining [NESD]	8 Years
(d) Plant and Machinery used in Telecommunications [NESD]	

1. Subs. by Notification No. G.S.R. 237(E), dated 31st March 2014, for clause (b) (w.e.f. 1-4-2014).

1. Towers	18 Years
2. Telecom transceivers, switching centres, transmission and other network equipment	13 Years
3. Telecom—Ducts, Cables and optical fibre	18 Years
4. Satellites	-do-
(e) Plant and Machinery used in exploration, production and refining oil and gas [NESD]	
1. Refineries	25 Years
2. Oil and gas assets (including wells), processing plant and facilities	-do-
3. Petrochemical Plant	-do-
4. Storage tanks and related equipment	-do-
5. Pipelines	30 Years
6. Drilling Rig	-do-
7. Field operations (above ground) Portable boilers, drilling tools, well-head tanks, etc.	8 Years
8. Loggers	-do-
(f) Plant and Machinery used in generation, transmission and distribution of power [NESD]	
1. Thermal/ Gas/ Combined Cycle Power Generation Plant	40 Years
2. Hydro Power Generation Plant	-do-
3. Nuclear Power Generation Plant	-do-
4. Transmission lines, cables and other network assets	-do-
5. Wind Power Generation Plant	22 Years
6. Electric Distribution Plant	35 Years
7. Gas Storage and Distribution Plant	30 Years
8. Water Distribution Plant including pipelines	-do-
(g) Plant and Machinery used in manufacture of steel	
1. Sinter Plant	20 Years
2. Blast Furnace	-do-
3. Coke ovens	-do-
4. Rolling mill in steel plant	-do-
5. Basic oxygen Furnace Converter	25 Years
(h) Plant and Machinery used in manufacture of non-ferrous metals	
1. Metal pot line [NESD]	40 Years
2. Bauxite crushing and grinding section [NESD]	-do-
3. Digester Section [NESD]	-do-
4. Turbine [NESD]	-do-

5. Equipments for Calcination [NESD]	-do-
6. Copper Smelter [NESD]	-do-
7. Roll Grinder	40 Years
8. Soaking Pit	30 Years
9. Annealing Furnace	-do-
10. Rolling Mills	-do-
11. Equipments for Scalping, Slitting , etc. [NESD]	-do-
12. Surface Miner, Ripper Dozer, etc., used in mines	25 Years
13. Copper refining plant [NESD]	-do-
(i) Plant and Machinery used in medical and surgical operations [NESD]	
1. Electrical Machinery, X-ray and electrotherapeutic apparatus and accessories thereto, medical, diagnostic equipments, namely, Cat-scan, Ultrasound Machines, ECG Monitors, etc.	13 Years
2. Other Equipments.	15 Years
(j) Plant and Machinery used in manufacture of pharmaceuticals and chemicals [NESD]	
1. Reactors	20 Years
2. Distillation Columns	-do-
3. Drying equipments/Centrifuges and Decanters	-do-
4. Vessel/storage tanks	-do-
(k) Plant and Machinery used in civil construction	
1. Concreting, Crushing, Piling Equipments and Road Making Equipments	12 Years
2. Heavy Lift Equipments—	
Cranes with capacity of more than 100 tons	20 Years
Cranes with capacity of less than 100 tons	15 Years
3. Transmission line, Tunneling Equipments [NESD]	10 Years
4. Earth-moving equipments	9 Years
5. Others including Material Handling/Pipeline/Welding Equipments [NESD]	12 Years
(l) Plant and Machinery used in salt works [NESD]	15 Years

V. Furniture and fittings [NESD]

- (i) General furniture and fittings 10 Years
- (ii) Furniture and fittings used in hotels, restaurants and boarding houses, schools, colleges and other educational institutions, libraries; welfare centres; meeting halls, cinema houses; theatres and circuses; and furniture and fittings let out on hire for use on the occasion of marriages and similar functions. 8 Years

VI. Motor Vehicles [NESD]

- 1. Motor cycles, scooters and other mopeds 10 Years

2. Motor buses, motor lorries, motor cars and motor taxies used in a business of running them on hire	6 Years
3. Motor buses, motor lorries and motor cars other than those used in a business of running them on hire	8 Years
4. Motor tractors, harvesting combines and heavy vehicles	-do-
5. Electrically operated vehicles including battery powered or fuel cell powered vehicles	8 Years

VII. Ships [NESD]

1. Ocean-going ships	
(i) Bulk Carriers and liner vessels	25 Years
(ii) Crude tankers, product carriers and easy chemical carriers with or without conventional tank coatings.	20 Years
(iii) Chemicals and Acid Carriers:	
(a) With Stainless steel tanks	25 Years
(b) With other tanks	20 Years
(iv) Liquified gas carriers	30 Years
(v) Conventional large passenger vessels which are used for cruise purpose also	-do-
(vi) Coastal service ships of all categories	-do-
(vii) Offshore supply and support vessels	20 Years
(viii) Catamarans and other high speed passenger for ships or boats	-do-
(ix) Drill ships	25 Years
(x) Hovercrafts	15 Years
(xi) Fishing vessels with wooden hull	10 Years
(xii) Dredgers, tugs, barges, survey launches and other similar ships used mainly for dredging purposes	14 Years

2. Vessels ordinarily operating on inland waters—

(i) Speed boats	13 Years
(ii) Other vessels	28 Years

VIII. Aircrafts or Helicopters [NESD]

IX. Railways sidings, locomotives, rolling stocks, tramways and railways used by concerns, excluding railway concerns [NESD]	15 Years
---	----------

X. Ropeway structures [NESD]	15 Years
-------------------------------------	----------

XI. Office equipment [NESD]	5 Years
------------------------------------	---------

XII. Computers and data processing units [NESD]

(i) Servers and networks	6 Years
(ii) End user devices, such as, desktops, laptops, etc.	3 Years

XIII. Laboratory equipment [NESD]

(i) General laboratory equipment	10 Years
----------------------------------	----------

(ii) Laboratory equipments used in educational institutions	5 Years
XIV. Electrical Installations and Equipment [NESD]	10 years
XV. Hydraulic works, pipelines and sluices [NESD]	15 Years
Notes.—	

1. “Factory buildings” does not include offices, godowns, staff quarters.

2. Where, during any financial year, any addition has been made to any asset, or where any asset has been sold, discarded, demolished or destroyed, the depreciation on such assets shall be calculated on a *pro rata* basis from the date of such addition or, as the case may be, up to the date on which such asset has been sold, discarded, demolished or destroyed.

3. The following information shall also be disclosed in the accounts, namely:—

(i) depreciation methods used; and

(ii) the useful lives of the assets for computing depreciation, if they are different from the life specified in the Schedule.

¹[4(a) Useful life specified in Part C of the Schedule is for whole of the asset and where cost of a part of the asset is significant to total cost of the asset and useful life of that part is different from the useful life of the remaining asset, useful life of that significant part shall be determined separately.

(b) The requirement under sub-paragraph (a) shall be voluntary in respect of the financial year commencing on or after the 1st April, 2014 and mandatory for financial statements in respect of financial years commencing on or after the 1st April, 2015.]

2*

*

*

*

*

6. The useful lives of assets working on shift basis have been specified in the Schedule based on their single shift working. Except for assets in respect of which no extra shift depreciation is permitted (indicated by NESD in Part C above), if an asset is used for any time during the year for double shift, the depreciation will increase by 50% for that period and in case of the triple shift the depreciation shall be calculated on the basis of 100% for that period.

7. From the date this Schedule comes into effect, the carrying amount of the asset as on that date—

(a) shall be depreciated over the remaining useful life of the asset as per this Schedule;

(b) after retaining the residual value, ³[may be recognised] in the opening balance of retained earnings where the remaining useful life of an asset is nil.

8. “Continuous process plant” means a plant which is required and designed to operate for twenty-four hours a day.

1. Subs. by Notification No. G.S.R. 627(E) dated 29th August 2014, for paragraph 4 (w.e.f. 29-8-2014).

2. Paragraph 5 omitted by Notification No. G.S.R. 237(E), dated 31st March , 2014 (w.e.f. 1-4-2014).

3. Subs. by Notification No. G.S.R. 627(E), dated 29th August 2014, for “shall be recognized” (w.e.f. 29-8-2014).

SCHEDULE III

(See section 129)

¹[Division I

FINANCIAL STATEMENTS FOR A COMPANY WHOSE FINANCIAL STATEMENTS ARE REQUIRED TO COMPLY WITH THE COMPANIES (ACCOUNTING STANDARDS) RULES, 2006

General Instructions for Preparation of Balance Sheet and Statement of Profit and Loss of a Company.]

GENERAL INSTRUCTIONS

1. Where compliance with the requirements of the Act including Accounting Standards as applicable to the companies require any change in treatment or disclosure including addition, amendment, substitution or deletion in the head or sub-head or any changes, *inter se*, in the financial statements or statements forming part thereof, the same shall be made and the requirements of this Schedule shall stand modified accordingly.

2. The disclosure requirements specified in this Schedule are in addition to and not in substitution of the disclosure requirements specified in the Accounting Standards prescribed under the Companies Act, 2013. Additional disclosures specified in the Accounting Standards shall be made in the notes to accounts or by way of additional statement unless required to be disclosed on the face of the Financial Statements. Similarly, all other disclosures as required by the Companies Act shall be made in the notes to accounts in addition to the requirements set out in this Schedule.

3. (i) Notes to accounts shall contain information in addition to that presented in the Financial Statements and shall provide where required (a) narrative descriptions or disaggregations of items recognised in those statements; and (b) information about items that do not qualify for recognition in those statements.

(ii) Each item on the face of the Balance Sheet and Statement of Profit and Loss shall be cross-referenced to any related information in the notes to accounts. In preparing the Financial Statements including the notes to accounts, a balance shall be maintained between providing excessive detail that may not assist users of financial statements and not providing important information as a result of too much aggregation.

4. (i) Depending upon the ²[Total Income] of the company, the figures appearing in the Financial Statements ³[Shall] be rounded off as given below:—

²[Total Income]	Rounding off
(a) less than one hundred crore rupees	To the nearest hundreds, thousands, lakhs or millions, or decimals thereof.
(b) one hundred crore rupees or more	To the nearest lakhs, millions or crores, or decimals thereof.

(ii) Once a unit of measurement is used, it ⁴[should] be used uniformly in the Financial Statements.

5. Except in the case of the first Financial Statements laid before the Company (after its incorporation) the corresponding amounts (comparatives) for the immediately preceding reporting period for all items shown in the Financial Statements including notes shall also be given.

6. For the purpose of this Schedule, the terms used herein shall be as per the applicable Accounting Standards.

Note:— This part of Schedule sets out the minimum requirements for disclosure on the face of the Balance Sheet, and the Statement of Profit and Loss (hereinafter referred to as “Financial Statements” for the purpose of this Schedule) and Notes. Line items, sub-line items and sub-totals shall be presented as an addition or substitution

1. Subs. by G.S.R. 404(E), dated 6th April, 2016, for “GENERAL INSTRUCTIONS FOR PREPARATION OF BALANCE SHEET AND STATEMENT OF PROFIT AND LOSS OF A COMPANY”.

2. Subs. by G.S.R. 207(E), dated 24th March, 2021, for “Turnover” (w.e.f. 1-4-2021).

3. Subs. by G.S.R. 207 (E), dated 24th March, 2021, for “may” (w.e.f. 1-4-2021).

4. Subs. by Notification No. G.S.R. 1022(E), dated 11th October, 2018, for “shall” (w.e.f. 11-10-218).

on the face of the Financial Statements when such presentation is relevant to an understanding of the company's financial position or performance or to cater to industry/sector-specific disclosure requirements or when required for compliance with the amendments to the Companies Act or under the Accounting Standards.

PART I — BALANCE SHEET

Name of the Company.....

Balance Sheet as at

(Rupees in.....)

Particulars	Note No.	Figures as at the end of current reporting period	Figures as at the end of the previous reporting period
1	2	3	4

I. EQUITY AND LIABILITIES

(1) Shareholders' funds

- (a) Share capital
- (b) Reserves and surplus
- (c) Money received against share warrants

(2) Share application money pending allotment

(3) Non-current liabilities

- (a) Long-term borrowings
- (b) Deferred tax liabilities (Net)
- (c) Other Long-term liabilities
- (d) Long-term provisions

(4) Current liabilities

- (a) Short-term borrowings
- ¹[(b) Trade payables
 - (A) total outstanding dues of micro enterprises and small enterprises; and
 - (B) total outstanding dues of creditors other than micro enterprises and small enterprises.]
- (c) Other current liabilities
- (d) Short-term provisions

TOTAL

1. Subs. by Notification No. G.S.R. 679(E), dated 4th September 2015, for "(b) Trade payables" (w.e.f. 4-9-2015).

1	2	3	4
---	---	---	---

II. ASSETS

Non-current assets

- (1) (a) ¹[Property, Plant and Equipment
²[and Intangible assets]]
 - (i) ³[Property, Plant and Equipment]
 - (ii) Intangible assets
 - (iii) Capital work-in-progress
 - (iv) Intangible assets under development
 - (b) Non-current investments
 - (c) Deferred tax assets (net)
 - (d) Long-term loans and advances
 - (e) Other non-current assets
- (2) Current assets
- (a) Current investments
 - (b) Inventories
 - (c) Trade receivables
 - (d) Cash and cash equivalents
 - (e) Short-term loans and advances
 - (f) Other current assets

TOTAL

See accompanying notes to the Financial Statements.

Notes

GENERAL INSTRUCTIONS FOR PREPARATION OF BALANCE SHEET

1. An asset shall be classified as current when it satisfies any of the following criteria:—

- (a) it is expected to be realised in, or is intended for sale or consumption in, the company's normal operating cycle;
- (b) it is held primarily for the purpose of being traded;
- (c) it is expected to be realised within twelve months after the reporting date; or
- (d) it is cash or cash equivalent unless it is restricted from being exchanged or used to settle a liability for at least twelve months after the reporting date.

All other assets shall be classified as non-current.

2. An operating cycle is the time between the acquisition of assets for processing and their realisation in cash or cash equivalents. Where the normal operating cycle cannot be identified, it is assumed to have a duration of twelve months.

3. A liability shall be classified as current when it satisfies any of the following criteria:—

- (a) it is expected to be settled in the company's normal operating cycle;

1. Subs. by Notification No. G.S.R. 1022(E), dated 11th October, 2018, for "Fixed assets" (w.e.f. 11-10-2018).

2. Ins. by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

3. Subs. by Notification No. G.S.R. 207(E), dated 24th March, 2021, for "Tangible Assets" (w.e.f. 1-4-2021).

- (b) it is held primarily for the purpose of being traded;
- (c) it is due to be settled within twelve months after the reporting date; or
- (d) the company does not have an unconditional right to defer settlement of the liability for at least twelve months after the reporting date. Terms of a liability that could, at the option of the counterparty, result in its settlement by the issue of equity instruments do not affect its classification.

All other liabilities shall be classified as non-current.

4. A receivable shall be classified as a “trade receivable” if it is in respect of the amount due on account of goods sold or services rendered in the normal course of business.

5. A payable shall be classified as a “trade payable” if it is in respect of the amount due on account of goods purchased or services received in the normal course of business.

6. A company shall disclose the following in the notes to accounts.

A. Share Capital

For each class of share capital (different classes of preference shares to be treated separately):

- (a) the number and amount of shares authorised;
- (b) the number of shares issued, subscribed and fully paid, and subscribed but not fully paid;
- (c) par value per share;
- (d) a reconciliation of the number of shares outstanding at the beginning and at the end of the reporting period;
- (e) the rights, preferences and restrictions attaching to each class of shares including restrictions on the distribution of dividends and the repayment of capital;
- (f) shares in respect of each class in the company held by its holding company or its ultimate holding company including shares held by or by subsidiaries or associates of the holding company or the ultimate holding company in aggregate;
- (g) shares in the company held by each shareholder holding more than 5 per cent. shares specifying the number of shares held;
- (h) shares reserved for issue under options and contracts/commitments for the sale of shares/disinvestment, including the terms and amounts;
- (i) for the period of five years immediately preceding the date as at which the Balance Sheet is prepared:
 - (A) Aggregate number and class of shares allotted as fully paid-up pursuant to contract (s) without payment being received in cash.
 - (B) Aggregate number and class of shares allotted as fully paid-up by way of bonus shares.
 - (C) Aggregate number and class of shares bought back.
- (j) terms of any securities convertible into equity/preference shares issued along with the earliest date of conversion in descending order starting from the farthest such date;
- (k) calls unpaid (showing aggregate value of calls unpaid by directors and officers);
- (l) forfeited shares (amount originally paid-up).

¹[(m) A company shall disclose Shareholding of Promoters* as below:

Shares held by promoters at the end of the year				% Change during the year***
S.No	Promoter name	No. of Shares**	% of total shares **	
Total				

*Promoter here means promoter as defined in the Companies Act, 2013.

** Details shall be given separately for each class of shares

*** percentage change shall be computed with respect to the number at the beginning of the year or if issued during the year for the first time then with respect to the date of issue.]

B. Reserves and Surplus

(i) Reserves and Surplus shall be classified as:

- (a) Capital Reserves;
- (b) Capital Redemption Reserve;
- (c) Securities Premium ^{1***};
- (d) Debenture Redemption Reserve;
- (e) Revaluation Reserve;
- (f) Share Options Outstanding Account;
- (g) Other Reserves—(specify the nature and purpose of each reserve and the amount in respect thereof);
- (h) Surplus *i.e.*, balance in Statement of Profit and Loss disclosing allocations and appropriations such as dividend, bonus shares and transfer to/ from reserves, etc.;

(Additions and deductions since last balance sheet to be shown under each of the specified heads);

(ii) A reserve specifically represented by earmarked investments shall be termed as a “fund”.

(iii) Debit balance of statement of profit and loss shall be shown as a negative figure under the head “Surplus”. Similarly, the balance of “Reserves and Surplus”, after adjusting negative balance of surplus, if any, shall be shown under the head “Reserves and Surplus” even if the resulting figure is in the negative.

C. Long-Term Borrowings

(i) Long-term borrowings shall be classified as:

- (a) Bonds/debentures;
- (b) Term loans:
 - (A) from banks.
 - (B) from other parties.
- (c) Deferred payment liabilities;
- (d) Deposits;
- (e) Loans and advances from related parties;
- (f) Long term maturities of finance lease obligations;
- (g) Other loans and advances (specify nature).

(ii) Borrowings shall further be sub-classified as secured and unsecured. Nature of security shall be specified separately in each case.

(iii) Where loans have been guaranteed by directors or others, the aggregate amount of such loans under each head shall be disclosed.

(iv) Bonds/debentures (along with the rate of interest and particulars of redemption or conversion, as the case may be) shall be stated in descending order of maturity or conversion, starting from farthest redemption or conversion date, as the case may be. Where bonds/debentures are redeemable by instalments, the date of maturity for this purpose must be reckoned as the date on which the first instalment becomes due.

1. The word “Reserve” omitted by Notification No. G.S.R.1022(E), dated 11th October, 2018 (w.e.f. 11-10-2018).

- (v) Particulars of any redeemed bonds/debentures which the company has power to reissue shall be disclosed.
- (vi) Terms of repayment of term loans and other loans shall be stated.
- (vii) Period and amount of continuing default as on the balance sheet date in repayment of loans and interest, shall be specified separately in each case.

D. Other Long-term Liabilities

Other Long-term Liabilities shall be classified as:

- (a) Trade payables;
- (b) Others.

E. Long-term provisions

The amounts shall be classified as:

- (a) Provision for employee benefits;
- (b) Others (specify nature).

F. Short-term borrowings

(i) Short-term borrowings shall be classified as:

- (a) Loans repayable on demand;
 - (A) from banks.
 - (B) from other parties.
- (b) Loans and advances from related parties;
- (c) Deposits;
- (d) Other loans and advances (specify nature).

(ii) Borrowings shall further be sub-classified as secured and unsecured. Nature of security shall be specified separately in each case.

(iii) Where loans have been guaranteed by directors or others, the aggregate amount of such loans under each head shall be disclosed.

(iv) Period and amount of default as on the balance sheet date in repayment of loans and interest, shall be specified separately in each case.

¹[(v) current maturities of Long term borrowings shall be disclosed separately.]

²[FA. Trade Payable:—

The following details relating to Micro, Small and Medium Enterprises shall be disclosed in the notes:

(a) the principal amount and the interest due thereon (to be shown separately) remaining unpaid to any supplier at the end of each accounting year;

(b) the amount of interest paid by the buyer in terms of section 16 of the Micro, Small and Medium Enterprises Development Act, 2006 (7 of 2006), along with the amount of the payment made to the supplier beyond the appointed day during each accounting year;

(c) the amount of interest due and payable for the period of delay in making payment (which have been paid but beyond the appointed day during the year) but without adding the interest specified under the Micro, Small and Medium Enterprises Development Act, 2006;

(d) the amount of interest accrued and remaining unpaid at the end of each accounting year; and

(e) the amount of further interest remaining due and payable even in the succeeding years, until such date when the interest dues above are actually paid to the small enterprise, for the purpose of disallowance of a deductible expenditure under section 23 of the Micro, Small and Medium Enterprises Development Act, 2006;

1. Ins. by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

2. Ins. by Notification No. G.S.R. 679(E), dated 4th September, 2015 (w.e.f. 4-9-2015).

Explanation.-The terms 'appointed day', 'buyer', 'enterprise', 'micro enterprise', 'small enterprise' and 'supplier', shall have the same meaning assigned to those under clauses (b), (d), (e), (h), (m) and (n) respectively of section 2 of the Micro, Small and Medium Enterprises Development Act, 2006.]

¹[FB. Trade payables due for payment]

The following ageing schedule shall be given for Trade payable due for payment:-

Trade Payables ageing schedule

Particulars	Outstanding for following periods from due date of payment#				Total
	Less than 1 year	1-2 years	2-3 years	More than 3 years	
(i) MSME					
(ii) Others					
(iii) Disputed dues					
MSME					
(iv) Disputed dues-others					

#similar information shall be given where no due date of payment is specified in that case disclosure shall be from the date of the transaction.

Unbilled dues shall be disclosed separately;]

G. Other current liabilities

The amounts shall be classified as:

2***

(b) Current maturities of finance lease obligations;

(c) Interest accrued but not due on borrowings;

(d) Interest accrued and due on borrowings;

(e) Income received in advance;

(f) Unpaid dividends;

(g) Application money received for allotment of securities and due for refund and interest accrued thereon. Share application money includes advances towards allotment of share capital. The terms and conditions including the number of shares proposed to be issued, the amount of premium, if any, and the period before which shares shall be allotted shall be disclosed. It shall also be disclosed whether the company has sufficient authorised capital to cover the share capital amount resulting from allotment of shares out of such share application money. Further, the period for which the share application money has been pending beyond the period for allotment as mentioned in the document inviting application for shares along with the reason for such share application money being pending shall be disclosed. Share application money not exceeding the issued capital and to the extent not refundable shall be shown under the head Equity and share application money to the extent refundable, i.e., the amount in excess of subscription or in case the requirements of minimum subscription are not met, shall be separately shown under "Other current liabilities";

(h) Unpaid matured deposits and interest accrued thereon;

(i) Unpaid matured debentures and interest accrued thereon;

(j) Other payables (specify nature).

H. Short-term provisions

1. Ins. by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

2. Item (a) omitted by Notification No. G.S.R. 207(E), dated 24th March, 2021 (w.e.f. 1-4-2021).

The amounts shall be classified as:

- (a) Provision for employee benefits.
- (b) Others (specify nature).

I. ¹[Property, Plant and Equipment]

(i) Classification shall be given as:

- (a) Land;
- (b) Buildings;
- (c) Plant and Equipment;
- (d) Furniture and Fixtures;
- (e) Vehicles;
- (f) Office equipment;
- (g) Others (specify nature).

(ii) Assets under lease shall be separately specified under each class of asset.

²[(iii) A reconciliation of the gross and net carrying amounts of each class of assets at the beginning and end of the reporting period showing additions, disposals, acquisitions through business combinations, amount of change due to revaluation (if change is 10% or more in the aggregate of the net carrying value of each class of Property, Plant and Equipment) and other adjustments and the related depreciation and impairment losses/reversals shall be disclosed separately.]

(iv) Where sums have been written-off on a reduction of capital or revaluation of assets or where sums have been added on revaluation of assets, every balance sheet subsequent to date of such write-off, or addition shall show the reduced or increased figures as applicable and shall by way of a note also show the amount of the reduction or increase as applicable together with the date thereof for the first five years subsequent to the date of such reduction or increase.

J. Intangible assets

(i) Classification shall be given as:

- (a) Goodwill;
- (b) Brands /trademarks;
- (c) Computer software;
- (d) Mastheads and publishing titles;
- (e) Mining rights;
- (f) Copyrights, and patents and other intellectual property rights, services and operating rights;
- (g) Recipes, formulae, models, designs and prototypes;
- (h) Licences and franchise;
- (i) Others (specify nature).

³[(ii) A reconciliation of the gross and net carrying amounts of each class of assets at the beginning and end of the reporting period showing additions, disposals, acquisitions through business combinations, amount of change due to revaluation (if change is 10% or more in the aggregate of the net carrying value of each class of

1. Subs. by Notification No. G.S.R. 207(E), dated 24th March, 2021, for “Tangible Assets” (w.e.f. 1-4-2021)
2. Subs. by Notification No. G.S.R. 207(E), dated 24th March, 2021, for item (iii) (w.e.f. 1-4-2021).
3. Subs. by Notification No. G.S.R. 207(E), dated 24th March, 2021, for item (ii) (w.e.f. 1-4-2021).

intangible assets) and other adjustments and the related depreciation and impairment losses or reversals shall be disclosed separately.]

(iii) Where sums have been written-off on a reduction of capital or revaluation of assets or where sums have been added on revaluation of assets, every balance sheet subsequent to date of such write-off, or addition shall show the reduced or increased figures as applicable and shall by way of a note also show the amount of the reduction or increase as applicable together with the date thereof for the first five years subsequent to the date of such reduction or increase.

K. Non-current investments

(i) Non-current investments shall be classified as trade investments and other investments and further classified as:

- (a) Investment property;
- (b) Investments in Equity Instruments;
- (c) Investments in preference shares;
- (d) Investments in Government or trust securities;
- (e) Investments in debentures or bonds;
- (f) Investments in Mutual Funds;
- (g) Investments in partnership firms;
- (h) Other non-current investments (specify nature).

Under each classification, details shall be given of names of the bodies corporate indicating separately whether such bodies are (i) subsidiaries, (ii) associates, (iii) joint ventures, or (iv) controlled special purpose entities in whom investments have been made and the nature and extent of the investment so made in each such body corporate (showing separately investments which are partly-paid). In regard to investments in the capital of partnership firms, the names of the firms (with the names of all their partners, total capital and the shares of each partner) shall be given.

(ii) Investments carried at other than at cost should be separately stated specifying the basis for valuation thereof;

(iii) The following shall also be disclosed:

- (a) Aggregate amount of quoted investments and market value thereof;
- (b) Aggregate amount of unquoted investments;
- (c) Aggregate provision for diminution in value of investments.

L. Long-term loans and advances

(i) Long-term loans and advances shall be classified as:

- (a) Capital Advances;

1***

- (c) Loans and advances to related parties (giving details thereof);

- (d) Other loans and advances (specify nature).

(ii) The above shall also be separately sub-classified as:

- (a) Secured, considered good;
- (b) Unsecured, considered good;
- (c) Doubtful.

(iii) Allowance for bad and doubtful loans and advances shall be disclosed under the relevant heads separately.

1. Sub-item (b) omitted by Notification No. G.S.R. 207(E), dated 24th March, 2021 (w.e.f. 1-4-2021).

(iv) Loans and advances due by directors or other officers of the company or any of them either severally or jointly with any other persons or amounts due by firms or private companies respectively in which any director is a partner or a director or a member should be separately stated.

M. Other non-current assets

Other non-current assets shall be classified as:

(i) Long-term Trade Receivables (including trade receivables on deferred credit terms);

¹[(ia) Security Deposits;]

(ii) Others (specify nature);

(iii) Long term Trade Receivables, shall be sub-classified as:

(A) (a) Secured, considered good;

(B) Unsecured, considered good;

(C) Doubtful.

(b) Allowance for bad and doubtful debts shall be disclosed under the relevant heads separately.

(c) Debts due by directors or other officers of the company or any of them either severally or jointly with any other person or debts due by firms or private companies respectively in which any director is a partner or a director or a member should be separately stated.

¹[(iv) For trade receivables outstanding, following ageing schedule shall be given:

Trade Receivables ageing schedule

(Amount in Rs.)

Particulars	Outstanding for following periods from due date of payment#					Total
	Less than 6 months	6 months-1 year	1-2 years	2-3 years	More than 3 years	
(i) Undisputed Trade receivables-considered good (ii) Undisputed Trade Receivables-considered doubtful (iii) Disputed Trade Receivables considered good (iv) Disputed Trade Receivables considered doubtful						

#similar information shall be given where no due date of payment is specified, in that case disclosure shall be from the date of the transaction.

Unbilled dues shall be disclosed separately.]

N. Current Investments

(i) Current investments shall be classified as:

(a) Investments in Equity Instruments;

(b) Investments in Preference Shares;

(c) Investments in Government or trust securities;

(d) Investments in debentures or bonds;

(e) Investments in Mutual Funds;

1. Ins. by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

- (f) Investments in partnership firms;
- (g) Other investments (specify nature).

Under each classification, details shall be given of names of the bodies corporate [indicating separately whether such bodies are: (i) subsidiaries, (ii) associates, (iii) joint ventures, or (iv) controlled special purpose entities] in whom investments have been made and the nature and extent of the investment so made in each such body corporate (showing separately investments which are partly paid). In regard to investments in the capital of partnership firms, the names of the firms (with the names of all their partners, total capital and the shares of each partner) shall be given.

(ii) The following shall also be disclosed:

- (a) The basis of valuation of individual investments;
- (b) Aggregate amount of quoted investments and market value thereof;
- (c) Aggregate amount of unquoted investments;
- (d) Aggregate provision made for diminution in value of investments.

O. Inventories

(i) Inventories shall be classified as:

- (a) Raw materials;
- (b) Work-in-progress;
- (c) Finished goods;
- (d) Stock-in-trade (in respect of goods acquired for trading);
- (e) Stores and spares;
- (f) Loose tools;
- (g) Others (specify nature).

(ii) Goods-in-transit shall be disclosed under the relevant sub-head of inventories.

(iii) Mode of valuation shall be stated.

P. Trade Receivables

¹[(i) For trade receivables outstanding, the following ageing schedules shall be given:

Trade Receivables ageing schedule

Particulars	Outstanding for following periods from due date of payment#					(Amount in Rs.)
	Less than 6 months	6 months-1 year	1-2 years	2-3 years	More than 3 years	
(i) Undisputed Trade receivables-considered good						
(ii) Undisputed Trade Receivables-considered doubtful						
(iii) Disputed Trade Receivables considered good						
(iv) Disputed Trade Receivables considered doubtful						

1. Subs. by Notification No. G.S.R. 207(E), dated 24th March, 2021, for item (i) (w.e.f. 1-4-2021).

#similar information shall be given where no due date of payment is specified in that case disclosure shall be from the date of the transaction.

Unbilled dues shall be disclosed separately.]

(ii) Trade receivables shall be sub-classified as:

- (a) Secured, considered good;
- (b) Unsecured, considered good;
- (c) Doubtful.

(iii) Allowance for bad and doubtful debts shall be disclosed under the relevant heads separately.

(iv) Debts due by directors or other officers of the company or any of them either severally or jointly with any other person or debts due by firms or private companies respectively in which any director is a partner or a director or a member should be separately stated.

Q. Cash and cash equivalents

(i) Cash and cash equivalents shall be classified as:

- (a) Balances with banks;
- (b) Cheques, drafts on hand;
- (c) Cash on hand;
- (d) Others (specify nature).

(ii) Earmarked balances with banks (for example, for unpaid dividend) shall be separately stated.

(iii) Balances with banks to the extent held as margin money or security against the borrowings, guarantees, other commitments shall be disclosed separately.

(iv) Repatriation restrictions, if any, in respect of cash and bank balances shall be separately stated.

(v) Bank deposits with more than twelve months maturity shall be disclosed separately.

R. Short-term loans and advances

(i) Short-term loans and advances shall be classified as:

- (a) Loans and advances to related parties (giving details thereof);
- (b) Others (specify nature).

(ii) The above shall also be sub-classified as:

- (a) Secured, considered good;
- (b) Unsecured, considered good;
- (c) Doubtful.

(iii) Allowance for bad and doubtful loans and advances shall be disclosed under the relevant heads separately.

(iv) Loans and advances due by directors or other officers of the company or any of them either severally or jointly with any other person or amounts due by firms or private companies respectively in which any director is a partner or a director or a member shall be separately stated.

S. Other current assets (specify nature)

This is an all-inclusive heading, which incorporates current assets that do not fit into any other asset categories.

T. Contingent liabilities and commitments (to the extent not provided for)

(i) Contingent liabilities shall be classified as:

- (a) Claims against the company not acknowledged as debt;
- (b) Guarantees;
- (c) Other money for which the company is contingently liable.

(ii) Commitments shall be classified as:

- (a) Estimated amount of contracts remaining to be executed on capital account and not provided for;
- (b) Uncalled liability on shares and other investments partly paid;
- (c) Other commitments (specify nature).

U. The amount of dividends proposed to be distributed to equity and preference shareholders for the period and the related amount per share shall be disclosed separately. Arrears of fixed cumulative dividends on preference shares shall also be disclosed separately.

V. Where in respect of an issue of securities made for a specific purpose, the whole or part of the amount has not been used for the specific purpose at the balance sheet date, there shall be indicated by way of note how such unutilised amounts have been used or invested.

1[VA. Where the company has not used the borrowings from banks and financial institutions for the specific purpose for which it was taken at the balance sheet date, the company shall disclose the details of where they have been used.]

W. If, in the opinion of the Board, any of the assets other than **2**[Property, Plant and Equipment] **3**[,Intangible assets] and non-current investments do not have a value on realisation in the ordinary course of business at least equal to the amount at which they are stated, the fact that the Board is of that opinion, shall be stated.

4*

*

*

*

*

5[Y. Additional Regulatory Information

(i) Title deeds of Immovable Property not held in name of the Company

The company shall provide the details of all the immovable property (other than properties where the Company is the lessee and the lease agreements are duly executed in favour of the lessee) whose title deeds are not held in the name of the company in format given below and where such immovable property is jointly held with others, details are required to be given to the extent of the company's share.

Relevant line item in the Balance sheet	Description of item of property	Gross carrying value	Title deeds held in the name of	Whether title deed holder is a promoter, director or relative# of promoter*/director or employee of promoter/director	Property held since which date	Reason for not being held in the name of the company**
PPE-	Land Building	-	-	-	-	** also indicate if in dispute
Investment property-	Land Building					
PPE retired from active use and held for disposal -	Land Building					
others						

#Relative here means relative as defined in the Companies Act, 2013.

*Promoter here means promoter as defined in the Companies Act, 2013.

1. Ins. by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

2. Subs. by Notification No. G.S.R. (E), dated 11th October, 2018, for "fixed assets" (w.e.f. 11-10-2018).

3. Ins. by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

4. Heading "X" omitted by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

5. Ins. by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

(ii) Where the Company has revalued its Property, Plant and Equipment, the company shall disclose as to whether the revaluation is based on the valuation by a registered valuer as defined under rule 2 of the Companies (Registered Valuers and Valuation) Rules, 2017.

(iii) Following disclosures shall be made where Loans or Advances in the nature of loans are granted to promoters, directors, KMPs and the related parties (as defined under Companies Act, 2013,) either severally or jointly with any other person, that are:

(a) repayable on demand or

(b) without specifying any terms or period of repayment

Type of Borrower	Amount of loan or advance in the nature of loan outstanding	Percentage to the total Loans and Advances in the nature of loans
Promoters		
Directors		
KMPs		
Related Parties		

(iv) Capital-Work-in Progress (CWIP)

(a) For Capital-work-in progress, following ageing schedule shall be given:

CWIP aging schedule

(Amount in Rs.)

CWIP	Amount in CWIP for a period of				Total*
	Less than 1 year	1-2 years	2-3 years	More than 3 years	
Projects in progress					
Projects temporarily suspended					

*Total shall tally with CWIP amount in the balance sheet.

(b) For capital-work-in progress, whose completion is overdue or has exceeded its cost compared to its original plan, following CWIP completion schedule shall be given**:

(Amount in Rs.)

CWIP	To be completed in			
	Less than 1 year	1-2 years	2-3 years	More than 3 years
Project 1				
Project 2”				

** Details of projects where actively has been suspended shall be given separately.

(v) Intangible assets under development:

(a) For Intangible assets under development, following ageing schedule shall be given:

Intangible assets under development aging schedule

(Amount in Rs.)

	Amount in CWIP for a period of	Total*

Intangible assets under development	Less than 1 year	1-2 years	2-3 years	More than 3 years	
Projects in progress					
Projects temporarily suspended					

*Total shall tally with the amount of Intangible assets under development in the balance sheet.

(b) For Intangible assets under development, whose completion is overdue or has exceeded its cost compared to its original plan, following **Intangible assets under development completion schedule** shall be given**:

(Amount in Rs.)

Intangible assets under development	To be completed in			
	Less than 1 year	1-2 years	2-3 years	More than 3 years
Project 1				
Project 2				

** Details of projects where activity has been suspended shall be given separately.

(vi) Details of Benami Property held

Where any proceedings have been initiated or pending against the company for holding any benami property under the Benami Transactions (Prohibition) Act, 1988 (45 of 1988) and the rules made thereunder, the company shall disclose the following:-

- (a) Details of such property, including year of acquisition,
- (b) Amount thereof,
- (c) Details of Beneficiaries,
- (d) If property is in the books, then reference to the item in the Balance Sheet,
- (e) If property is not in the books, then the fact shall be stated with reasons,
- (f) Where there are proceedings against the company under this law as an abetter of the transaction or as the transferor then the details shall be provided,
- (g) Nature of proceedings, status of same and company's view on same.

(vii) Where the Company has borrowings from banks or financial institutions on the basis of security of current assets, it shall disclose the following:-

(a) whether quarterly returns or statements of current assets filed by the Company with banks or financial institutions are in agreement with the books of accounts.

(b) if not, summary of reconciliation and reasons of material discrepancies, if any to be adequately disclosed.

(viii) Wilful Defaulter*

Where a company is a declared willful defaulter by any bank or financial Institution or other lender, following details shall be given:

- (a) Date of declaration as willful defaulter,
- (b) Details of defaults (amount and nature of defaults),

* "willful defaulter" here means a person or an issuer who or which is categorized as a willful defaulter by any bank or financial institution (as defined under the Act) or consortium thereof, in accordance with the guidelines on willful defaulters issued by the Reserve Bank of India.

(ix) Relationship with Struck off Companies

Where the company has any transactions with companies struck off under section 248 of the Companies Act, 2013 or section 560 of Companies Act, 1956, the Company shall disclose the following details:-

Name of struck off Company	Nature of transactions with struck off Company	Balance outstanding	Relationship with the Struck off company, if any, to be disclosed
	Investments in securities		
	Receivables		
	Payables		
	Shares held by stuck off company		
	Other outstanding balances (to be specified)		

(x) Registration of charges or satisfaction with Registrar of Companies

Where any charges or satisfaction yet to be registered with Registrar of Companies beyond the statutory period, details and reasons thereof shall be disclosed.

(xi) Compliance with number of layers of companies

Where the company has not complied with the number of layers prescribed under clause (87) of section 2 of the Act read with Companies (Restriction on number of Layers) Rules, 2017, the name and CIN of the companies beyond the specified layers and the relationship/extent of holding of the company in such downstream companies shall be disclosed.

(xii) Following Ratios to be disclosed:-

- (a) Current Ratio,
- (b) Debt-Equity Ratio,
- (c) Debt Service Coverage Ratio,
- (d) Return on Equity Ratio,
- (e) Inventory turnover ratio,
- (f) Trade Receivables turnover ratio,
- (g) Trade payables turnover ratio,
- (h) Net capital turnover ratio,
- (i) Net profit ratio,
- (j) Return on Capital employed,
- (k) Return on investment.

The company shall explain the items included in numerator and denominator for computing the above ratios. Further explanation shall be provided for any change in the ratio by more than 25% as compared to the preceding year.

(xiii) Compliance with approved Scheme(s) of Arrangements

Where any Scheme of Arrangements has been approved by the Competent Authority in terms of sections 230 to 237 of the Companies Act, 2013, the Company shall disclose that the effect of such Scheme of Arrangements have been accounted for in the books of account of the Company ‘in accordance with the Scheme’ and ‘in accordance with accounting standards’ and deviation in this regard shall be explained.

(xiv) Utilisation of Borrowed funds and share premium:

(A) Where company has advanced or loaned or invested funds (either borrowed funds or share premium or any other sources or kind of funds) to any other person(s) or entity (ies), including foreign entities (Intermediaries) with the understanding (whether recorded in writing or otherwise) that the Intermediary shall

(i) directly or indirectly lend or invest in other persons or entities identified in any manner whatsoever by or on behalf of the company (Ultimate Beneficiaries) or
(ii) provide any guarantee, security or the like to or on behalf of the Ultimate Beneficiaries;
the company shall disclose the following:-

(I) date and amount of fund advanced or loaned or invested in Intermediaries with complete details of each Intermediary.

(II) date and amount of fund further advanced or loaned or invested by such Intermediaries to other intermediaries or Ultimate Beneficiaries alongwith complete details of the ultimate beneficiaries.

(III) date and amount of guarantee, security or the like provided to or on behalf of the Ultimate Beneficiaries.

(IV) declaration that relevant provisions of the Foreign Exchange Management Act, 1999 (42 of 1999) and Companies Act has been complied with for such transactions and the transactions are not violative of the Prevention of Money-Laundering act, 2002 (15 of 2003);

(B) Where a company has received any fund from any persons (s) or entity(ies), including foreign entities (Funding Party) with the understanding (whether recorded in writing or otherwise) that the company shall

(i) directly or indirectly lend or invest in other persons or entities identified in any manner whatsoever by or on behalf of the Funding Party (Ultimate Beneficiaries) or
(ii) provide any guarantee, security or the like on behalf of the Ultimate Beneficiaries, the company shall disclose the following:-

(I) date and amount of fund received from Funding parties with complete details of each Funding party.

(II) date and amount of fund further advanced or loaned or invested other intermediaries or Ultimate Beneficiaries alongwith complete details of the other intermediaries' or ultimate beneficiaries.

(III) date and amount of guarantee, security or the like provided to or on behalf of the Ultimate Beneficiaries

(IV) declaration that relevant provisions of the Foreign Exchange Management Act, 1999 (42 of 1999) and Companies Act has been complied with for such transactions and the transactions are not violative of the Prevention of Money-Laundering act, 2002 (15 of 2003).]

PART II – STATEMENT OF PROFIT AND LOSS

Name of the Company.....

Profit and loss statement for the year ended

(Rupees in.....)

Particulars	Note No.	Figures as at the end of current reporting period	Figures as at the end of the previous reporting period
		3	4
1	2		
I. Revenue from operations		xxx	xxx
II. Other income		xxx	xxx
III. Total ¹ [Income] (I + II)		xxx	xxx
IV. Expenses:			
Cost of materials consumed			
Purchases of Stock-in-Trade			

1. Subs. by Notification No. G.S.R. 207(E), dated 24th March, 2021, for “Revrnue” (w.e.f. 1-4-2021).

Changes in inventories of finished goods		xxx	xxx
work-in-progress and Stock-in-Trade		xxx	xxx
Employee benefits expense		xxx	xxx
Finance costs			
Depreciation and amortisation expense			
Other expenses			
1	2	3	4
Total expenses		xxx	xxx
V. Profit before exceptional and extraordinary items and tax (III - IV)		xxx	xxx
VI. Exceptional items		xxx	xxx
VII. Profit before extraordinary items and tax (V - VI)		xxx	xxx
VIII. Extraordinary items		xxx	xxx
IX. Profit before tax (VII- VIII)		xxx	xxx
X. Tax expense:			
(1) Current tax		xxx	xxx
(2) Deferred tax		xxx	xxx
XI. Profit (Loss) for the period from continuing operations (VII-VIII)		xxx	xxx
XII. Profit/(loss) from discontinuing operations		xxx	xxx
XIII. Tax expense of discontinuing operations		xxx	xxx
XIV. Profit/(loss) from Discontinuing operations (after tax) (XII-XIII)		xxx	xxx
XV. Profit (Loss) for the period (XI + XIV)		xxx	xxx
XVI. Earnings per equity share:			
(1) Basic		xxx	xxx
(2) Diluted		xxx	xxx

See accompanying notes to the financial statements.

**GENERAL INSTRUCTIONS FOR PREPARATION OF STATEMENT OF
PROFIT AND LOSS**

1. The provisions of this Part shall apply to the income and expenditure account referred to in sub-clause (ii) of clause (40) of section 2 in like manner as they apply to a statement of profit and loss.

2. (A) In respect of a company other than a finance company revenue from operations shall disclose separately in the notes revenue from—

(a) Sale of products;

(b) Sale of services;

¹[(ba) Grants or donations received (relevant in case of section 8 companies only)]

(c) Other operating revenues;

Less:

(d) Excise duty.

(B) In respect of a finance company, revenue from operations shall include revenue from—

(a) Interest; and

(b) Other financial services.

Revenue under each of the above heads shall be disclosed separately by way of notes to accounts to the extent applicable.

3. Finance Costs

Finance costs shall be classified as:

(a) Interest expense;

(b) Other borrowing costs;

(c) Applicable net gain/loss on foreign currency transactions and translation.

4. Other income

Other income shall be classified as:

(a) Interest Income (in case of a company other than a finance company);

(b) Dividend Income;

(c) Net gain/loss on sale of investments;

(d) Other non-operating income (net of expenses directly attributable to such income).

5. Additional Information

A Company shall disclose by way of notes additional information regarding aggregate expenditure and income on the following items:—

(i) (a) Employee Benefits Expense [showing separately (i) salaries and wages,

(ii) contribution to provident and other funds, (iii) expense on Employee Stock Option Scheme (ESOP) and Employee Stock Purchase Plan (ESPP), (iv) staff welfare expenses].

(b) Depreciation and amortisation expense;

(c) Any item of income or expenditure which exceeds one per cent. of the revenue from operations or Rs.1,00,000, whichever is higher;

1. Ins. by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

- (d) Interest Income;
- (e) Interest expense;
- (f) Dividend income;
- (g) Net gain/loss on sale of investments;
- (h) Adjustments to the carrying amount of investments;
- (i) Net gain or loss on foreign currency transaction and translation (other than considered as finance cost);
- (j) Payments to the auditor as (a) auditor; (b) for taxation matters; (c) for company law matters; (d) for management services; (e) for other services; and (f) for reimbursement of expenses;
- (k) In case of Companies covered under section 135, amount of expenditure incurred on corporate social responsibility activities;
- (l) Details of items of exceptional and extraordinary nature;
- (m) Prior period items;
- (ii) (a) In the case of manufacturing companies,—
 - (1) Raw materials under broad heads.
 - (2) goods purchased under broad heads.
- (b) In the case of trading companies, purchases in respect of goods traded in by the company under broad heads.
- (c) In the case of companies rendering or supplying services, gross income derived from services rendered or supplied under broad heads.
- (d) In the case of a company, which falls under more than one of the categories mentioned in (a), (b) and (c) above, it shall be sufficient compliance with the requirements herein if purchases, sales and consumption of raw material and the gross income from services rendered is shown under broad heads.
- (e) In the case of other companies, gross income derived under broad heads.
- (iii) In the case of all concerns having works in progress, works-in-progress under broad heads.
 - (iv) (a) The aggregate, if material, of any amounts set aside or proposed to be set aside, to reserve, but not including provisions made to meet any specific liability, contingency or commitment known to exist at the date as to which the balance sheet is made up.
 - (b) The aggregate, if material, of any amounts withdrawn from such reserves.
 - (v) (a) The aggregate, if material, of the amounts set aside to provisions made for meeting specific liabilities, contingencies or commitments.
 - (b) The aggregate, if material, of the amounts withdrawn from such provisions, as no longer required.
- (vi) Expenditure incurred on each of the following items, separately for each item:—
 - (a) Consumption of stores and spare parts;
 - (b) Power and fuel;
 - (c) Rent;
 - (d) Repairs to buildings;
 - (e) Repairs to machinery;
 - (f) Insurance;
 - (g) Rates and taxes, excluding, taxes on income;

- (h) Miscellaneous expenses,
- (vii) (a) Dividends from subsidiary companies.
- (b) Provisions for losses of subsidiary companies.
- (viii) The profit and loss account shall also contain by way of a note the following information, namely:—
 - (a) Value of imports calculated on C.I.F basis by the company during the financial year in respect of—
 - I. Raw materials;
 - II. Components and spare parts;
 - III. Capital goods;
 - (b) Expenditure in foreign currency during the financial year on account of royalty, know-how, professional and consultation fees, interest, and other matters;
 - (c) Total value if all imported raw materials, spare parts and components consumed during the financial year and the total value of all indigenous raw materials, spare parts and components similarly consumed and the percentage of each to the total consumption;
 - (d) The amount remitted during the year in foreign currencies on account of dividends with a specific mention of the total number of non-resident shareholders, the total number of shares held by them on which the dividends were due and the year to which the dividends related;
 - (e) Earnings in foreign exchange classified under the following heads, namely:—
 - I. Export of goods calculated on F.O.B. basis;
 - II. Royalty, know-how, professional and consultation fees;
 - III. Interest and dividend;
 - IV. Other income, indicating the nature thereof.

Note:— Broad heads shall be decided taking into account the concept of materiality and presentation of true and fair view of financial statements.

¹[(ix) Undisclosed income:-

The Company shall give details of any transaction not recorded in the books of accounts that has been surrendered or disclosed as income during the year in the tax assessments under the Income Tax Act, 1961 (such as, search or survey or any other relevant provisions of the Income Tax Act, 1961), unless there is immunity for disclosure under any scheme and also shall state whether the previously unrecorded income and related assets have been properly recorded in the books of account during the year.;

(x) Corporate Social Responsibility (CSR)

Where the company covered under section 135 of the companies act, the following shall be disclosed with regard to CSR activities:-

- (a) amount required to be spent by the company during the year,
- (b) amount of expenditure incurred,
- (c) shortfall at the end of the year,
- (d) total of previous years shortfall,
- (e) reason for shortfall,
- (f) nature of CSR activities
- (g) details of related party transactions, e.g., contribution to a trust controlled by the company in relation to CSR expenditure as per relevant Accounting Standard,
- (h) where a provision is made with respect to a liability incurred by entering into a contractual obligation, the movements in the provision during the year should be shown separately.

1. Ins. by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

(xi) Details of Crypto Currency or Virtual Currency

Where the Company has traded or invested in Crypto currency or Virtual Currency during the financial year, the following shall be disclosed:-

- (a) profit or loss on transactions involving Crypto currency or Virtual Currency
- (b) amount or currency held as at the reporting date,
- (c) deposits or advances from any person for the purpose of trading or investing in Crypto Currency/virtual currency.]

GENERAL INSTRUCTIONS FOR THE PREPARATION OF CONSOLIDATED FINANCIAL STATEMENTS

1. Where a company is required to prepare Consolidated Financial Statements, *i.e.*, consolidated balance sheet and consolidated statement of profit and loss, the company shall *mutatis mutandis* follow the requirements of this Schedule as applicable to a company in the preparation of balance sheet and statement of profit and loss. In addition, the consolidated financial statements shall disclose the information as per the requirements specified in the applicable Accounting Standards including the following:

(i) Profit or loss attributable to “minority interest” and to owners of the parent in the statement of profit and loss shall be presented as allocation for the period.

(ii) “Minority interests” in the balance sheet within equity shall be presented separately from the equity of the owners of the parent.

2. In Consolidated Financial Statements, the following shall be disclosed by way of additional information:

Name of the entity in the	Net Assets, <i>i.e.</i> , total assets minus total liabilities		Share in profit or loss	
	As % of consolidated net assets	Amount	As % of consolidated profit or loss	Amount
1	2	3	4	5
Parent				
Subsidiaries				
Indian				
1.				
2.				
3.				
.				
.				
Foreign				
1.				
2.				

1	2	3	4	5
3.				
.				
Minority Interest in all subsidiaries				
Associates (Investment as per the equity method)				
Indian				
1.				
2.				
3.				
.				
.				
Foreign				
1.				
2.				
3.				
.				
.				
Joint Ventures (as per proportionate consolidation/ investment as per the equity method)				
Indian	_____	_____	_____	_____
1.				
2.				
3.				
.				
.				
Foreign				
1.				
2.				
3.				
.				
.				
Total	_____	_____	_____	_____

3. All subsidiaries, associates and joint ventures (whether Indian or foreign) will be covered under consolidated financial statements.

4. An entity shall disclose the list of subsidiaries or associates or joint ventures which have not been consolidated in the consolidated financial statements along with the reasons of not consolidating.

¹[Division II

Financial Statements for a company whose financial statements are drawn up in compliance of the Companies (Indian Accounting Standards) Rules, 2015.

GENERAL INSTRUCTIONS FOR PREPARATION OF FINANCIAL STATEMENTS OF A COMPANY REQUIRED TO COMPLY WITH Ind AS

1. Every company to which Indian Accounting Standards apply, shall prepare its financial statements in accordance with this Schedule or with such modification as may be required under certain circumstances.

2. Where compliance with the requirements of the Act including Indian Accounting Standards (except the option of presenting assets and liabilities in the order of liquidity as provided by the relevant Ind AS) as applicable to the companies require any change in treatment or disclosure including addition, amendment, substitution or deletion in the head or sub-head or any changes inter se, in the financial or statements forming part thereof, the same shall be made and the requirements under this Schedule shall stand modified accordingly.

3. The disclosure requirements specified in the Schedule are in addition to and not in substitution of the disclosure requirements specified in the Indian Accounting Standards. Additional disclosures specified in the Indian Accounting Standards shall be made in the Notes or by way of additional statement or statements unless required to be disclosed on the face of the Financial Statements. Similarly, all other disclosures as required by the Companies Act, 2013 shall be made in the Notes in addition to the requirements set out in this Schedule.

4. (i) Notes shall contain information in addition to that presented in the Financial Statements and shall provide where required-

(a) narrative descriptions or disaggregations of items recognised in those statements; and

(b) information about items that do not qualify for recognition in those statements.

(ii) Each item on the face of the Balance Sheet, Statement of Changes in Equity and Statement of Profit and Loss shall be cross-referenced to any related information in the Notes. In preparing the Financial Statements including the Notes, a balance shall be maintained between providing excessive detail that may not assist users of Financial Statements and not providing important information as a result of too much aggregation.

5. Depending upon the ²[Total Income] of the company, the figures appearing in the Financial Statements shall be rounded off as below:

²[Total Income]	Rounding off
(i) less than one hundred crore rupees	To the nearest hundreds, thousands, lakhs or millions, or decimals thereof.
(ii) one hundred crore rupees or more	To the nearest, lakhs, millions or crores, or decimals thereof.

Once a unit of measurement is used, it should be used uniformly in the Financial Statements.

6. Financial Statements shall contain the corresponding amounts (comparatives) for the immediately preceding reporting period for all items shown in the Financial Statements including Notes except in the case of first Financial Statements laid before the company after incorporation.

1. Ins. by Notification No. G.S.R. 404(E), dated 6th April, 2016 (w.e.f. 6-4-2016).

2. Subs. by Notification No. G.S.R. 207(E), dated 24th March, 2021, for "Turnover" (w.e.f. 1-4-2021).

7. Financial Statements shall disclose all ‘material’ items, *i.e.*, the items if they could, individually or collectively, influence the economic decisions that users make on the basis of the financial statements. Materiality depends on the size or nature of the item or a combination of both, to be judged in the particular circumstances.

8. For the purpose of this Schedule, the terms used herein shall have the same meanings assigned to them in Indian Accounting Standards.

9. Where any Act or Regulation requires specific disclosures to be made in the standalone financial statements of a company, the said disclosures shall be made in addition to those required under this Schedule.

Note: This Schedule sets out the minimum requirements for disclosure on the face of the Financial Statements, *i.e.*, Balance Sheet, Statement of Changes in Equity for the period, the Statement of Profit and Loss for the period (The term ‘Statement of Profit and Loss’ has the same meaning as ‘Profit and Loss Account’) and Notes. Cash flow statement shall be prepared, where applicable, in accordance with the requirements of the relevant Indian Accounting Standard.

Line items, sub-line items and sub-totals shall be presented as an addition or substitution on the face of the Financial Statements when such presentation is relevant to an understanding of the company’s financial position or performance or to cater to industry or sector-specific disclosure requirements or when required for compliance with the amendments to the Companies Act, 2013 or under the Indian Accounting Standards.

PART I –BALANCE SHEET

Name of the Company

Balance Sheet as at

(Rupees in

	Particulars	Note No.	Figures as at the end of current reporting period	
			1	3
(I)	ASSETS Non-current assets			
(2)	(a) Property, Plant and Equipment (b) Capital work-in-progress (c) Investment Property (d) Goodwill (e) Other Intangible assets (f) Intangible assets under development (g) Biological Assets other than bearer plants (h) Financial Assets (i) Investments (ii) Trade receivables (iii) Loans (iv) Others (to be specified) (j) Deferred tax assets (net) (j) Other non-current assets Current assets (a) Inventories (b) Financial Assets (i) Investments (ii) Trade receivables (iii) Cash and cash equivalents (iv) Bank balances other than (iii) above (v) Loans (vi) Others (to be specified) (c) Current Tax Assets (Net) (d) Other current assets			

	Total Assets			
(1)	<p>¹[Trade Payables</p> <p>(A) total outstanding dues of micro enterprises and small enterprises; and</p> <p>(B) total outstanding dues of creditors other than micro enterprises and small enterprises.]</p> <p>(a) EQUITY and LIABILITIES</p> <p>Non-current liabilities</p> <p>(a) Financial Liabilities</p> <p>(i) Borrowings</p> <p>²[(ia) Lease liabilities]</p>			
(2)	<p>¹[Trade Payables</p> <p>(A) total outstanding dues of micro enterprises and small enterprises; and</p> <p>(B) total outstanding dues of creditors other than micro enterprises and small enterprises.]</p> <p>(iii) Other financial liabilities (other than those specified in item (b), to be specified)</p> <p>(b) Provisions</p> <p>(c) Deferred tax liabilities (Net)</p> <p>(d) Other non-current liabilities</p> <p>Current liabilities</p> <p>(a) Financial Liabilities</p> <p>(i) Borrowings</p> <p>²[(ia) Lease liabilities]</p> <p>(ii) Trade payables</p> <p>(iii) Other financial liabilities (other than those specified in item (c))</p> <p>(b) Other current liabilities</p> <p>(c) Provisions</p> <p>(d) Current Tax Liabilities (Net)</p>			
	Total Equity and Liabilities			

See accompanying notes to the financial statements

³[STATEMENT OF CHANGES IN EQUITY]

Name of the Company

A. Equity Share Capital

(1) Current reporting period

Balance at the beginning of the current reporting period	Changes in Equity Share Capital due to prior period errors	Restated balance at the beginning of the current reporting period	Changes in equity share capital during the current year	Balance at the end of the current reporting period

1. Subs. by Notification No. G.S.R. 1022(E), dated 11-10-2018, for "(b) Trade payables" (w.e.f. 11-10-2018).

2. Ins. by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

3. Subs. by Notification No. G.S.R. 207(E), dated 24th March, 2021, for "Statement of Changes in Equity" (w.e.f. 1-4-2021).

(2) Previous reporting period

Balance at the beginning of the previous reporting period	Changes in Equity Share Capital due to prior period errors	Restated balance at the beginning of the previous reporting period	Changes in equity share capital during the previous year	Balance at the end of the previous reporting period

B. Other Equity

(1) Current reporting period

	Share application money pending allotment	Equity component of compound financial instruments	Reserves and Surplus				Debt instruments through Other Comprehensive Income	Equity Instruments through Other Comprehensive Income	Effective portion of Cash Flow Hedges	Revaluation Surplus	Exchange differences on translating the financial statements of a foreign operation	Other items of Other Comprehensive Income (specify nature)	Money received against share warrants	Total
			Capital Reserve	[Securities Premium Reserve]	Other Reserves (specify nature)	Retained Earnings								
Balance at the beginning of the current reporting period														
Changes in accounting policy or prior period errors														
Restated balance at the beginning of the current reporting period														
Total														
Comprehensive Income for the Current year														
Dividends														
Transfer to retained earnings														
Any other change (to be specified)														
Balance at the end of the current reporting period														

(2) Previous reporting period

	Share application money pending allotment	Equity component of compound financial instruments	Reserves and Surplus										Other items of Other Comprehensive Income (specify nature)	Money received against share warrants	Total
			Capital Reserve	Securities Premium	Other Reserves (specify nature)	Retained Earnings	Debt instruments through Other Comprehensive Income	Equity Instruments through Other Comprehensive Income	Effective portion of Cash Flow Hedges	Revaluation Surplus	Exchange differences on translating the financial statements of a foreign operation				
Balance at the															
Beginning of the previous reporting period															

1. Subs. by Notification No. G.S.R. 1022(E), dated 11th October, 2018, for "Securities Premium Reserve" (w.e.f. 11-10-2018).

Changes in accounting policy/prior period errors												
Restated balance at the beginning of the previous reporting period												
Total Comprehensive Income for the previous year												
Dividends												
Transfer to retained earnings												
Any other change (to be specified)												
Balance at the end of the previous reporting period												

Note: Remeasurement of defined benefit plans and fair value changes relating to own credit risk of financial liabilities designated at fair value through profit or loss shall be recognized as a part of retained earnings with separate disclosure of such items alongwith the relevant amounts in the Notes or shall be shown as a separate column under Reserves and Surplus.]

Notes:

GENERAL INSTRUCTIONS FOR PREPARATION OF BALANCE SHEET

1. An entity shall classify an asset as current when-
 - (a) it expects to realise the asset, or intends to sell or consume it, in its normal operating cycle;
 - (b) it holds the asset primarily for the purpose of trading;
 - (c) it expects to realise the asset within twelve months after the reporting period; or
 - (d) the asset is cash or a cash equivalent unless the asset is restricted from being exchanged or used to settle a liability for at least twelve months after the reporting period.
 An entity shall classify all other assets as non-current.
2. The operating cycle of an entity is the time between the acquisition of assets for processing and their realisation in cash or cash equivalents. When the entity's normal operating cycle is not clearly identifiable, it is assumed to be twelve months.
3. An entity shall classify a liability as current when-
 - (a) it expects to settle the liability in its normal operating cycle;
 - (b) it holds the liability primarily for the purpose of trading;
 - (c) the liability is due to be settled within twelve months after the reporting period; or
 - (d) it does not have an unconditional right to defer settlement of the liability for at least twelve months after the reporting period. Terms of a liability that could, at the option of the counterparty, result in its settlement by the issue of equity instruments do not affect its classification.
 An entity shall classify all other liabilities as non-current.
4. A receivable shall be classified as a 'trade receivable' if it is in respect of the amount due on account of goods sold or services rendered in the normal course of business.
5. A payable shall be classified as a 'trade payable' if it is in respect of the amount due on account of goods purchased or services received in the normal course of business.
6. A company shall disclose the following in the Notes:

A. Non-Current Assets

I. Property, Plant and Equipment :

(i) Classification shall be given as:

- (a) Land
- (b) Buildings
- (c) Plant and Equipment
- (d) Furniture and Fixtures
- (e) Vehicles
- (f) Office equipment
- (g) Bearer Plants
- (h) Others (specify nature)

(ii) Assets under lease shall be separately specified under each class of assets.

¹[(iii) A reconciliation of the gross and net carrying amounts of each class of assets at the beginning and end of the reporting period showing additions, disposals, acquisitions through business combinations, amount of change due to revaluation (if change is 10% or more in the aggregate of the net carrying value of each class of Property, Plant and Equipment) and other adjustments and the related depreciation and impairment losses or reversals shall be disclosed separately.]

II. Investment Property:

A reconciliation of the gross and net carrying amounts of each class of property at the beginning and end of the reporting period showing additions, disposals, acquisitions through business combinations and other adjustments and the related depreciation and impairment losses or reversals shall be disclosed separately.

III Goodwill:

A reconciliation of the gross and net carrying amount of goodwill at the beginning and end of the reporting period showing additions, impairments, disposals and other adjustments.

IV. Other Intangible assets:

(i) Classification shall be given as:

- (a) Brands or trademarks
- (b) Computer software
- (c) Mastheads and publishing titles
- (d) Mining rights
- (e) Copyrights, patents, other intellectual property rights, services and operating rights
- (f) Recipes, formulae, models, designs and prototypes
- (g) Licenses and franchises
- (h) Others (specify nature)

²[(ii) A reconciliation of the gross and net carrying amounts of each class of assets at the beginning and end of the reporting period showing additions, disposals, acquisitions through business combinations, amount of change due to revaluation (if change is 10% or more in the aggregate of the net carrying value of each class of intangible assets) and other adjustments and the related amortization and impairment losses or reversals shall be disclosed separately.]

V. Biological Assets other than bearer plants:

A reconciliation of the carrying amounts of each class of assets at the beginning and end of the reporting period showing additions, disposals, acquisitions through business combinations and other adjustments shall be disclosed separately.

1. Subs. by Notification No. G.S.R. 207(E), dated 24th March, 2021, for item (iii) (w.e.f. 1-4-2021).

2. Subs. by Notification No. G.S.R. 207(E), dated 24th March, 2021, for item (ii) (w.e.f. 1-4-2021).

VI. Investments:

- (i) Investments shall be classified as:
 - (a) Investments in Equity Instruments;
 - (b) Investments in Preference Shares;
 - (c) Investments in Government or trust securities;
 - (d) Investments in debentures or bonds;
 - (e) Investments in Mutual Funds;
 - (f) Investments in partnership firms; or
 - (g) Other investments (specify nature).

Under each classification, details shall be given of names of the bodies corporate that are-

- (i) subsidiaries,
- (ii) associates,
- (iii) joint ventures, or
- (iv) structured entities,

in whom investments have been made and the nature and extent of the investment so made in each such body corporate (showing separately investments which are partly-paid). Investments in partnership firms along alongwith names of the firms, their partners, total capital and the shares of each partner shall be disclosed separately.

The following shall also be disclosed:

- (a) Aggregate amount of quoted investments and market value thereof;
- (b) Aggregate amount of unquoted investments; and
- (c) Aggregate amount of impairment in value of investments.

VII. Trade Receivables:

- ¹[(i) Trade receivables shall be sub-classified as:

- (a) Trade Receivables considered good – Secured;
- (b) Trade Receivables considered good – Unsecured;
- (c) Trade Receivables which have significant increase in Credit Risk; and
- (d) Trade Receivables - credit impaired.]

- (ii) Allowance for bad and doubtful debts shall be disclosed under the relevant heads separately.

- (iii) Debts due by directors or other officers of the company or any of them either severally or jointly with any other person or debts due by firms or private companies respectively in which any director is a partner or a director or a member should be separately stated.

²[(iv) Trade Receivables ageing schedule

(Amount in Rs.)

Particulars	Outstanding for following periods from due date of payment#					Total
	Less than 6 months	6 months -1 year	1-2 years	2-3 years	More than 3 years	
(i) Undisputed Trade Receivables - considered good						
(ii) Undisputed Trade Receivables- which have significant increase in credit risk						

1. Subs. by Notification No. G.S.R. 1022(E), dated 11th October, 2018, for “VII. Trade Receivable” (w.e.f. 11-10-2018).

2. Ins. by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

(iii) Undisputed Trade Receivables- credit impaired					
(iv) Disputed Trade Receivables- considered good					
(v) Disputed Trade Receivables – which have significant increase in credit risk					
(vi) Disputed Trade Receivables- credit impaired					

#similar information shall be given where no due date of payment is specified in that case disclosure shall be from the date of the transaction.

Unbilled dues shall be disclosed separately;]

VIII. Loans:

(i) Loans shall be classified as-

1***

- (b) Loans to related parties (giving details thereof); and
- (c) Other loans (specify nature).

²[(ii) Loans Receivables shall be sub-classified as:

- (a) Loans Receivables considered good – Secured;
- (b) Loans Receivables considered good - Unsecured;
- (c) Loans Receivables which have significant increase in Credit Risk; and
- (d) Trade Receivables - credit impaired.]

(iii) Allowance for bad and doubtful loans shall be disclosed under the relevant heads separately.

(iv) Loans due by directors or other officers of the company or any of them either severally or jointly with any other persons or amounts due by firms or private companies respectively in which any director is a partner or a director or a member should be separately stated.

³[IX. Other financial assets

(i) Security Deposits

(ii) Bank deposits with more than 12 months maturity

(iii) others (to be specified)]

IX. Other non-current assets: Other non-current assets shall be classified as-

(i) Capital Advances; and

(ii) Advances other than capital advances;

(1) Advances other than capital advances shall be classified as:

- (a) Security Deposits;
- (b) Advances to related parties (giving details thereof); and
- (c) Other advances (specify nature).

(2) Advances to directors or other officers of the company or any of them either severally or jointly with any other persons or advances to firms or private companies respectively in which any director is a partner or a director or a member should be separately stated. In case advances are of the nature of a financial asset as per relevant Ind AS, these are to be disclosed under ‘other financial assets’ separately.

1. Sub-item (a) omitted by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

2. Subs. by Notification No. G.S.R. 1022(E), dated 11th October, 2018, for “VIII. Trade Receivable” (w.e.f. 11-10-2018).

3. Subs. by Notification No. G.S.R. 207(E), dated 24th March, 2021, for sub-heading “IX” and the entries relating thereto (w.e.f. 1-4-2021).

(iii) Others (specify nature).

B. Current Assets

I. Inventories:

(i) Inventories shall be classified as-

- (a) Raw materials;
- (b) Work-in-progress;
- (c) Finished goods;
- (d) Stock-in-trade (in respect of goods acquired for trading);
- (e) Stores and spares;
- (f) Loose tools; and
- (g) Others (specify nature).

(ii) Goods-in-transit shall be disclosed under the relevant sub-head of inventories.

(iii) Mode of valuation shall be stated.

II. Investments:

(i) Investments shall be classified as-

- (a) Investments in Equity Instruments;
- (b) Investment in Preference Shares;
- (c) Investments in government or trust securities;
- (d) Investments in debentures or bonds;
- (e) Investments in Mutual Funds;
- (f) Investments in partnership firms; and
- (g) Other investments (specify nature).

Under each classification, details shall be given of names of the bodies corporate that are-

- (i) subsidiaries,
- (ii) associates,
- (iii) joint ventures, or
- (iv) structured entities,

in whom investments have been made and the nature and extent of the investment so made in each such body corporate (showing separately investments which are partly-paid).

(ii) The following shall also be disclosed-

- (a) Aggregate amount of quoted investments and market value thereof;
- (b) Aggregate amount of unquoted investments;
- (c) Aggregate amount of impairment in value of investments.

III. Trade Receivables:

¹[(i) Trade receivables shall be sub-classified as:

- (a) Loans Receivables considered good – Secured;
- (b) Loans Receivables considered good - Unsecured;
- (c) Loans Receivables which have significant increase in Credit Risk; and
- (d) Trade Receivables - credit impaired.]

(ii) Allowance for bad and doubtful debts shall be disclosed under the relevant heads separately.

(iii) Debts due by directors or other officers of the company or any of them either severally or jointly with any other person or debts due by firms or private companies respectively in which any director is a partner or a director or a member should be separately stated.

1. Subs. by Notification No. G.S.R. 1022(E), dated 11th October, 2018, for “III Trade Receivables” (w.e.f. 11-10-2018).

¹[(iv) For trade receivable outstanding, following ageing schedule shall be given:

Trade Receivables ageing schedule

(Amount in Rs.)

Particulars	Outstanding for following periods from due date of payment#					Total
	Less than 6 months	6 months - 1 year	1-2 years	2-3 years	More than 3 years	
(i) Undisputed Trade receivables- considered good (ii) Undisputed Trade Receivables -which have significant increase in credit risk (iii) Undisputed Trade Receivables-credit impaired (iv) Disputed Trade Receivables-considered good (v) Disputed Trade Receivables-which have significant increase in credit risk (iv) Disputed Trade Receivables -credit impaired						

similar information shall be given where no due date of payment is specified in that case disclosure shall be from the date of the transaction.

Unbilled dues shall be disclosed separately.]

IV. Cash and cash equivalents: Cash and cash equivalents shall be classified as-

- a. Balances with Banks (of the nature of cash and cash equivalents);
- b. Cheques, drafts on hand;
- c. Cash on hand; and
- d. Others (specify nature).

V. Loans:

(i) Loans shall be classified as:

- (a) 2***
- (b) Loans to related parties (giving details thereof); and
- (c) Others (specify nature).

³[(ii) Trade receivables shall be sub-classified as:

- (a) Loans Receivables considered good – Secured;
- (b) Loans Receivables considered good - Unsecured;
- (c) Loans Receivables which have significant increase in Credit Risk; and
- (d) Trade Receivables - credit impaired.]

(iii) Allowance for bad and doubtful loans shall be disclosed under the relevant heads separately.

(iv) Loans due by directors or other officers of the company or any of them either severally or jointly with any other person or amounts due by firms or private companies respectively in which any director is a partner or a director or a member shall be separately stated.

1. Ins. by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

2. Sub-item (a) omitted by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

3. Subs. by *ibid.*, for “V. Loans” (w.e.f. 11-10-2018).

¹[VA. Other Financial Assets: This is an all-inclusive heading, which incorporates financial assets that do not fit into any other financial asset categories, such as, Security Deposits.]

VI. Other current assets (specify nature): This is an all-inclusive heading, which incorporates current assets that do not fit into any other asset categories. Other current assets shall be classified as-

(i) Advances other than capital advances

(1) Advances other than capital advances shall be classified as:

- (a) Security Deposits;
- (b) Advances to related parties (giving details thereof);
- (c) Other advances (specify nature).

(2) Advances to directors or other officers of the company or any of them either severally or jointly with any other persons or advances to firms or private companies respectively in which any director is a partner or a director or a member should be separately stated.

(ii) Others (specify nature)

C. Cash and Bank balances: The following disclosures with regard to cash and bank balances shall be made:

- (a) Earmarked balances with banks (for example, for unpaid dividend) shall be separately stated.
- (b) Balances with banks to the extent held as margin money or security against the borrowings, guarantees, other commitments shall be disclosed separately.
- (c) Repatriation restrictions, if any, in respect of cash and bank balances shall be separately stated.

D. Equity

I. Equity Share Capital: For each class of equity share capital:

- (a) the number and amount of shares authorised;
- (b) the number of shares issued, subscribed and fully paid, and subscribed but not fully paid;
- (c) par value per share;
- (d) a reconciliation of the number of shares outstanding at the beginning and at the end of the period;
- (e) the rights, preferences and restrictions attaching to each class of shares including restrictions on the distribution of dividends and the repayment of capital;
- (f) shares in respect of each class in the company held by its holding company or its ultimate holding company including shares held by subsidiaries or associates of the holding company or the ultimate holding company in aggregate;
- (g) shares in the company held by each shareholder holding more than five per cent. shares specifying the number of shares held;
- (h) shares reserved for issue under options and contracts or commitments for the sale of shares or disinvestment, including the terms and amounts;
- (i) for the period of five years immediately preceding the date at which the Balance Sheet is prepared-
 - aggregate number and class of shares allotted as fully paid up pursuant to contract without payment being received in cash;
 - aggregate number and class of shares allotted as fully paid up by way of bonus shares; and
 - aggregate number and class of shares bought back;
- (j) terms of any securities convertible into equity shares issued along with the earliest date of conversion in descending order starting from the farthest such date;
- (k) calls unpaid (showing aggregate value of calls unpaid by directors and officers);
- (l) forfeited shares (amount originally paid up).

²[(m) A company shall disclose Shareholding of Promoters* as under:

Shares held by promoters at the end of the year				% Change during the year***
S.No	Promoter name	No. of Shares***	% of total shares	
Total				

*Promoter here means promoter as defined in the Companies Act, 2013.

-
- 1. Ins. by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).
 - 2. Ins. by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

** Details shall be given separately for each class of shares

*** percentage change shall be computed with respect to the number at the beginning of the year or if issued during the year for the first time then with respect to the date of issue.]

II. Other Equity:

(i) ‘Other Reserves’ shall be classified in the notes as-

- (a) Capital Redemption Reserve;
- (b) Debenture Redemption Reserve;
- (c) Share Options Outstanding Account; and
- (d) Others— (specify the nature and purpose of each reserve and the amount in respect thereof); (Additions and deductions since last balance sheet to be shown under each of the specified heads)

(ii) Retained Earnings represents surplus *i.e.* balance of the relevant column in the Statement of Changes in Equity;

(iii) A reserve specifically represented by earmarked investments shall disclose the fact that it is so represented;

(iv) Debit balance of Statement of Profit and Loss shall be shown as a negative figure under the head ‘retained earnings’. Similarly, the balance of ‘Other Equity’, after adjusting negative balance of retained earnings, if any, shall be shown under the head ‘Other Equity’ even if the resulting figure is in the negative; and

(v) Under the sub-head ‘Other Equity’, disclosure shall be made for the nature and amount of each item.

E. Non-Current Liabilities

I. Borrowings:

(i) borrowings shall be classified as-

(a) Bonds or debentures

(b) Term loans

(I) from banks

(II) from other parties

(c) Deferred payment liabilities

(d) Deposits

(e) Loans from related parties

1***

(g) Liability component of compound financial instruments

(h) Other loans (specify nature);

(ii) borrowings shall further be sub-classified as secured and unsecured. Nature of security shall be specified separately in each case.

(iii) where loans have been guaranteed by directors or others, the aggregate amount of such loans under each head shall be disclosed;

(iv) bonds or debentures (along with the rate of interest, and particulars of redemption or conversion, as the case may be) shall be stated in descending order of maturity or conversion, starting from farthest redemption or conversion date, as the case may be. Where bonds/debentures are redeemable by installments, the date of maturity for this purpose must be reckoned as the date on which the first installment becomes due;

(v) particulars of any redeemed bonds or debentures which the company has power to reissue shall be disclosed;

(vi) terms of repayment of term loans and other loans shall be stated; and

(vii) period and amount of default as on the balance sheet date in repayment of borrowings and interest shall be specified separately in each case.

1. Sub-item (f) omitted by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

II. Provisions: The amounts shall be classified as-

- (a) Provision for employee benefits; and
- (b) Others (specify nature).

III. Other non-current liabilities;

- (a) Advances; and
- (b) Others (specified nature).

F. Current Liabilities

I. Borrowings:

(i) Borrowings shall be classified as-

- (a) Loans repayable on demand
 - (I) from banks
 - (II) from other parties
- (b) Loans from related parties
- (c) Deposits
- (d) Other loans (specify nature);

(ii) borrowings shall further be sub-classified as secured and unsecured. Nature of security shall be specified separately in each case;

(iii) where loans have been guaranteed by directors or others, the aggregate amount of such loans under each head shall be disclosed;

(iv) period and amount of default as on the balance sheet date in repayment of borrowings and interest, shall be specified separately in each case.

¹[(v) Current maturities of Long term borrowing shall be disclosed separately.]

II. Other Financial Liabilities: Other Financial liabilities shall be classified as-

2***

(c) Interest accrued;

(d) Unpaid dividends;

(e) Application money received for allotment of securities to the extent refundable and interest accrued thereon;

(f) Unpaid matured deposits and interest accrued thereon;

(g) Unpaid matured debentures and interest accrued thereon; and

(h) Others (specify nature).

'Long term debt' is a borrowing having a period of more than twelve months at the time of origination

III. Other current liabilities:

The amounts shall be classified as-

- (a) revenue received in advance;
- (b) other advances (specify nature); and
- (c) others (specify nature);

1. Ins. by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

2. Items (a) and (b) omitted by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

IV. Provisions: The amounts shall be classified as-

- (i) provision for employee benefits; and
- (ii) others (specify nature).

¹[FA. Trade Payables

The following details relating to Micro, Small and Medium Enterprises shall be disclosed in the notes:-

- (a) the principal amount and the interest due thereon (to be shown separately) remaining unpaid to any supplier at the end of each accounting year;
- (b) the amount of interest paid by the buyer in terms of section 16 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006), along with the amount of the payment made to the supplier beyond the appointed day during each accounting year;
- (c) the amount of interest due and payable for the period of delay in making payment (which have been paid but beyond the appointed day during the year) but without adding the interest specified under the Micro, Small and Medium Enterprises Development Act, 2006;
- (d) the amount of interest accrued and remaining unpaid at the end of each accounting year; and
- (e) the amount of further interest remaining due and payable even in the succeeding years, until such date when the interest dues above are actually paid to the small enterprise, for the purpose of disallowance of a deductible expenditure under section 23 of the Micro, Small and Medium Enterprises Development Act, 2006.

Explanation.-The terms 'appointed day', 'buyer', 'enterprise', 'micro enterprise', 'small enterprise' and 'supplier', shall have the same meaning assigned to those under clauses (b), (d), (e), (h), (m) and (n) respectively of section 2 of the Micro, Small and Medium Enterprises Development Act, 2006.]

²[FB. For trade payables due for payment, following ageing schedule shall be given:

Trade payable aging schedule

(Amount in Rs.)

Particulars	Outstanding for following periods from due date of payment#				
	Less than 1 year	1-2 years	2-3 years	More than 3 years	Total
(i) MSME					
(ii) Others					
(iii) Disputed dues- MSME					
(iv) Disputed dues- Others					

#similar information shall be given where no due date of payment is specified in that case disclosure shall be from the date of the transaction.

Unbilled dues shall be disclosed separately]

G. The presentation of liabilities associated with group of assets classified as held for sale and non-current assets classified as held for sale shall be in accordance with the relevant Indian Accounting Standards (Ind ASs).

H. Contingent Liabilities and Commitments:

(to the extent not provided for)

- (i) Contingent Liabilities shall be classified as-
 - (a) claims against the company not acknowledged as debt;
 - (b) guarantees excluding financial guarantees; and
 - (c) other money for which the company is contingently liable.

1. Ins. by Notification No. G.S.R. 1022(E), dated 11th October, 2018 (w.e.f. 11-10-2018).

2. Ins. by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

(ii) Commitments shall be classified as-

- (a) estimated amount of contracts remaining to be executed on capital account and not provided for;
- (b) uncalled liability on shares and other investments partly paid; and
- (c) other commitments (specify nature).

I. The amount of dividends proposed to be distributed to equity and preference shareholders for the period and the related amount per share shall be disclosed separately. Arrears of fixed cumulative dividends on irredeemable preference shares shall also be disclosed separately.

J. Where in respect of an issue of securities made for a specific purpose the whole or part of amount has not been used for the specific purpose at the Balance Sheet date, there shall be indicated by way of note how such unutilised amounts have been used or invested.

¹[JA.] Where the company has not used the borrowings from banks and financial institutions for the specific purpose for which it was taken at the balance sheet date, the company shall disclose the details of where they have been used.]

* * * *

³[L. Additional Regulatory Information

(i) Title deeds of Immovable Properties not held in name of the Company

The company shall provide the details of all the immovable properties (other than properties where the Company is the lessee and the lease agreements are duly executed in favour of the lessee) whose title deeds are not held in the name of the company in following format and where such immovable property is jointly held with others, details are required to be given to the extent of the company's share.

Relevant line item in the Balance sheet	Description of item of property	Gross carrying value	Title deeds held in the name of	Whether title deed holder is a promoter, director or relative# of promoter*/director or employee of promoter/director	Property held since which date	Reason for not being held in the name of the company**
PPE - Investment property	Land Building Land	- - -	- - -	- - -	- - -	**also indicate if in dispute
Non-current asset held for sale - others	Building Land Building					

#Relative here means relative as defined in the Companies Act, 2013.

1. Ins. by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

2. Heading K and the entries relating thereto omitted by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

3. Ins. by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

*Promoter here means promoter as defined in the Companies Act, 2013.

(ii) The Company shall disclose as to whether the fair value of investment property (as measured for disclosure purposes in the financial statements) is based on the valuation by a registered valuer as defined under rule 2 of Companies (Registered Valuers and Valuation) Rules, 2017.

(iii) Where the Company has revalued its Property, Plant and Equipment (including Right-of-Use Assets), the company shall disclose as to whether the revaluation is based on the valuation by a registered valuer as defined under rule 2 of Companies (Registered Valuers and Valuation) Rules, 2017.

(iv) Where the company has revalued its intangible assets, the company shall disclose as to whether the revaluation is based on the valuation by a registered valuer as defined under rule 2 of Companies (Registered Valuers and Valuation) Rules, 2017.

(v) The following disclosures shall be made where Loans or Advances in the nature of loans are granted to promoters, director, KMPs and the related parties (as defined under Companies Act, 2013), either severally or jointly with any other person, that are:

(a) repayable on demand; or

(b) without specifying any terms or period of repayment,

Type of Borrower	Amount of loan or advance in the nature of loan outstanding	Percentage to the total Loans and Advances in the nature of loans
Promoter		
Directors		
KMPs		
Related Parties		

(vi) Capital-Work-in Progress (CWIP)

(a) For Capital-work-in progress, following ageing schedule shall be given:

CWIP aging schedule

(Amount in Rs.)

CWIP	Amount in CWIP for a period of				Total*
	Less than 1 year	1-2 years	2-3 years	More than 3 years	
Projects in progress					
Projects temporarily suspended					

*Total shall tally with CWIP amount in the balance sheet.

(b) For capital-work in progress, whose completion is overdue or has exceeded its cost compared to its original plan, following CWIP completion schedule shall be given**:

(Amount in Rs.)

CWIP	To be completed in			
	Less than 1 year	1-2 years	2-3 years	More than 3 years
Project 1				

Project 2”				
------------	--	--	--	--

** Details of projects where activity has been suspended shall be given separately.

(vii) Intangible assets under development:

(a) For Intangible assets under development, following ageing schedule shall be given:

Intangible assets under development aging schedule

(Amount in Rs.)

Intangible assets under development	Amount in CWIP for a period of				Total*
	Less than 1 year	1-2 year	2-3 years	More than 3 years	
Projects in progress					
Projects temporarily suspended					

*Total shall tally with the amount of Intangible assets under development in the balance sheet.

(b) For Intangible assets under development, whose completion is overdue or has exceeded its cost compared to its original plan, the following Intangible assets under development completion schedule shall be given**:

(Amount in Rs.)

Intangible assets under development	To be completed in			
	Less than 1 year	1-2 years	2-3 years	More than 3 years
Project 1				
Project 2”				

** Details of projects where activity has been suspended shall be given separately.

(viii) Details of Benami Property held

Where any proceeding has been initiated or pending against the company for holding any benami property under the Benami Transactions (Prohibition) Act, 1988 (45 of 1988) and rules made thereunder, the company shall disclose the following:-

- (a) Details of such property,
 - (b) Amount thereof,
 - (c) Details of Beneficiaries,
 - (d) If property is in the books, then reference to the item in the Balance Sheet,
 - (e) If property is not in the books, then the fact shall be stated with reasons,
 - (f) Where there are proceedings against the company under this law as an abetter of the transaction or as the transferor then the details shall be provided,
 - (g) Nature of proceedings, status of same and company's view on same.
- (ix) where the Company has borrowings from banks or financial institutions on the basis of security of current assets, it shall disclose the following:-

(a) whether quarterly returns or statements of current assets filed by the Company with banks or financial institutions are in agreement with the books of accounts;

(b) if not, summary of reconciliation and reasons of material discrepancies, if any to be adequately disclosed.

(x) Wilful Defaulter*

Where a company is a declared wilful defaulter by any bank or financial Institution or other lender, following details shall be given:

(a) Date of declaration as willful defaulter,

(b) Details of defaults (amount and nature of defaults)

* wilful defaulter here means a person or an issuer who or which is categorized as a willful defaulter by any bank or financial institution (as defined under the Companies Act, 2013) or consortium thereof, in accordance with the guidelines on wilful defaulters issued by the Reserve Bank of India.

(xi) Relationship with Struck off Companies

Where the company has any transactions with companies struck off under section 248 of the Companies Act, 2013 or section 560 of Companies Act, 1956, the Company shall disclose the following details, namely:-

Name of struck off Company	Nature of transactions with struck-off Company	Balance outstanding	Relationship with the Struck off company, if any, to be disclosed
	Investment in securities		
	Receivables		
	Payables		
	Shares held by stuck off company		
	Other outstanding balances (to be specified)		

(xii) Registration of charges or satisfaction with Registrar of Companies (ROC)

Where any charges or satisfaction yet to be registered with ROC beyond the statutory period, details and reasons thereof shall be disclosed.

(xiii) Compliance with number of layers of companies

Where the company has not complied with the number of layers prescribed under clause (87) of section 2 of the Act read with the Companies (Restriction on number of Layers) Rules, 2017, the name and CIN of the companies beyond the specified layers and the relationship or extent of holding of the company in such downstream companies shall be disclosed.

(xiv) Following Ratios to be disclosed:-

(a) Current Ratio,

(b) Debt-Equity Ratio,

(c) Debt Service Coverage Ratio,

(d) Return on Equity Ratio,

(e) Inventory turnover ratio,

(f) Trade Receivables turnover ratio,

(g) Trade payables turnover ratio,

(h) Net capital turnover ratio,

(i) Net profit ratio,

(j) Return on Capital employed,

(k) Return on investment.

The company shall explain the items included in numerator and denominator for computing the above ratios. Further explanation shall be provided for any change in the ratio by more than 25% as compared to the preceding year.

(xv) Compliance with approved Scheme(s) of Arrangements

Where the Scheme of Arrangements has been approved by the Competent Authority in terms of sections 230 to 237 of the Companies Act, 2013, the company shall disclose that the effect of such Scheme of Arrangements have been accounted for in the books of account of the Company ‘in accordance with the Scheme’ and ‘in accordance with accounting standards’ and any deviation in this regard shall be explained.

(xvi) Utilisation of Borrowed funds and share premium:

(A) Where company has advanced or loaned or invested funds (either borrowed funds or share premium or any other sources or kind of funds) to any other person(s) or entity(ies), including foreign entities (Intermediaries) with the understanding (whether recorded in writing or otherwise) that the Intermediary shall

(i) directly or indirectly lend or invest in other persons or entities identified in any manner whatsoever by or on behalf of the company (Ultimate Beneficiaries) or

(ii) provide any guarantee, security or the like to or on behalf of the Ultimate Beneficiaries;

the company shall disclose the following:-

(I) date and amount of fund advanced or loaned or invested in Intermediaries with complete details of each Intermediary.

(II) date and amount of fund further advanced or loaned or invested by such Intermediaries to other intermediaries or Ultimate Beneficiaries alongwith complete details of the ultimate beneficiaries.

(III) date and amount of guarantee, security or the like provided to or on behalf of the Ultimate Beneficiaries

(IV) declaration that relevant provisions of the Foreign Exchange Management Act, 1999 (42 of 1999) and Companies Act has been complied with for such transactions and the transactions are not violative of the Prevention of Money-Laundering act, 2002 (15 of 2003);

(B) Where a company has received any fund from any person(s) or entity(ies), including foreign entities (Funding Party) with the understanding (whether recorded in writing or otherwise) that the company shall

(i) directly or indirectly lend or invest in other persons or entities identified in any manner whatsoever by or on behalf of the Funding Party (Ultimate Beneficiaries) or

(ii) provide any guarantee, security or the like on behalf of the Ultimate Beneficiaries, the company shall disclose the following:-

(I) date and amount of fund received from Funding parties with complete details of each Funding party.

(II) date and amount of fund further advanced or loaned or invested other intermediaries or Ultimate Beneficiaries alongwith complete details of the other intermediaries‘ or ultimate beneficiaries.

(III) date and amount of guarantee, security or the like provided to or on behalf of the Ultimate Beneficiaries

(IV) declaration that relevant provisions of the Foreign Exchange Management Act, 1999 (42 of 1999) and Companies Act has been complied with for such transactions and the transactions are not violative of the Prevention of Money-Laundering act, 2002 (15 of 2003).

7. When a company applies an accounting policy retrospectively or makes a restatement of items in the financial statements or when it reclassifies items in its financial statements, the company shall attach to the Balance Sheet, a “Balance Sheet” as at the beginning of the earliest comparative period presented.

8. Share application money pending allotment shall be classified into equity or liability in accordance with relevant Indian Accounting Standards. Share application money to the extent not refundable shall be shown under the head Equity and share application money to the extent refundable shall be separately shown under ‘Other financial liabilities’.

9. Preference shares including premium received on issue, shall be classified and presented as ‘Equity’ or ‘Liability’ in accordance with the requirements of the relevant Indian Accounting Standards. Accordingly, the disclosure and presentation requirements in this regard applicable to the relevant class of equity or liability shall be applicable *mutatis mutandis* to the preference shares. For instance,

¹[plain vanilla], redeemable preference shares shall be classified and presented under ‘non-current liabilities’ as ‘borrowings’ and the disclosure requirements in this regard applicable to such borrowings shall be applicable *mutatis mutandis* to redeemable preference shares.

10. Compound financial instruments such as convertible debentures, where split into equity and liability components, as per the requirements of the relevant Indian Accounting Standards, shall be classified and presented under the relevant heads in ‘Equity’ and ‘Liabilities’

11. Regulatory Deferral Account Balances shall be presented in the Balance Sheet in accordance with the relevant Indian Accounting Standards.

PART II – STATEMENT OF PROFIT AND LOSS

Name of the Company.....

Statement of Profit and Loss for the period ended.....

(Rupees in

	Particulars	Note No.		Figures for the current reporting period		Figures for the previous reporting period
I	Revenue From Operations					
II	Other Income					
III	Total Income (I+II)					
IV	EXPENSES					
	Cost of materials consumed					
	Purchases of Stock-in-Trade					
	Changes in inventories of finished goods, Stock-in -Trade and work-in-progress					
	Employee benefits expense					
	Finance costs					
	Depreciation and amortization expense					
	Other expenses					
	Total expenses (IV)					
V	Profit/(loss) before exceptional items and tax (I- IV)					
VI	Exceptional Items					
VII	Profit/(loss) before tax (V-VI)					
VIII	Tax expense:					
	(1) Current tax					
	(2) Deferred tax					
IX	Profit (Loss) for the period from continuing operations (VII-VIII)					
X	Profit/(loss) from discontinued operations					
XI	Tax expense of discontinued operations					
XII	Profit/(loss) from Discontinued operations (after tax) (X-XI)					

1. Ins. by Notification No. G.S.R. 1022(E), dated 11th October, 2018 (w.e.f. 11-10-2018).

XIII	Profit/(loss) for the period (IX+XII)				
XIV	Other Comprehensive Income A (i) Items that will not be reclassified to profit or loss (ii) Income tax relating to items that will not be reclassified to profit or loss B (i) Items that will be reclassified to profit or loss (ii) Income tax relating to items that will be reclassified to profit or loss				
XV	Total Comprehensive Income for the period (XIII+XIV)(Comprising Profit (Loss) and Other Comprehensive Income for the period)				
XVI	Earnings per equity share (for continuing operation): (1) Basic (2) Diluted				
XVII	Earnings per equity share (for discontinued operation): (1) Basic (2) Diluted				
XVIII	Earnings per equity share(for discontinued & continuing operations) (1) Basic (2) Diluted				

See accompanying notes to the financial statements

Notes:

GENERAL INSTRUCTIONS FOR PREPARATION OF STATEMENT OF PROFIT AND LOSS

1. The provisions of this Part shall apply to the income and expenditure account, in like manner as they apply to a Statement of Profit and Loss.
2. The Statement of Profit and Loss shall include:
 - (1) Profit or loss for the period;
 - (2) Other Comprehensive Income for the period.

The sum of (1) and (2) above is ‘Total Comprehensive Income’.
3. Revenue from operations shall disclose separately in the notes
 - (a) sale of products (including Excise Duty);
 - (b) sale of services;^{1***}
 - ²[(ba) Grants or donations received (relevant in case of section 8 companies only); and]
 - (c) other operating revenues.
4. Finance Costs: Finance costs shall be classified as-
 - (a) interest;
 - (b) dividend on redeemable preference shares;
 - (c) exchange differences regarded as an adjustment to borrowing costs; and
 - (d) other borrowing costs (specify nature).
5. Other income: Other income shall be classified as-

1. The word “and” omitted by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).
 2. Ins. by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

- (a) interest Income;
 - (b) dividend Income; and
 - (c) other non-operating income (net of expenses directly attributable to such income).
6. Other Comprehensive Income shall be classified into-
- (A) Items that will not be reclassified to profit or loss
 - (i) Changes in revaluation surplus;
 - (ii) Remeasurements of the defined benefit plans;
 - (iii) Equity Instruments through Other Comprehensive Income;
 - (iv) Fair value changes relating to own credit risk of financial liabilities designated at fair value through profit or loss;
 - (v) Share of Other Comprehensive Income in Associates and Joint Ventures, to the extent not to be classified into profit or loss; and
 - (vi) Others (specify nature).
 - (B) Items that will be reclassified to profit or loss;
 - (i) Exchange differences in translating the financial statements of a foreign operation;
 - (ii) Debt Instruments through Other Comprehensive Income;
 - (iii) The effective portion of gains and loss on hedging instruments in a cash flow hedge;
 - (iv) Share of Other Comprehensive Income in Associates and Joint Ventures, to the extent to be classified into profit or loss; and
 - (v) Others (specify nature).
7. Additional Information: A Company shall disclose by way of notes, additional information regarding aggregate expenditure and income on the following items:
- (a) employee Benefits expense [showing separately (i) salaries and wages, (ii) contribution to provident and other funds, (iii) share based payments to employees, (iv) staff welfare expenses].
 - (b) depreciation and amortisation expense;
 - (c) any item of income or expenditure which exceeds one per cent of the revenue from operations or Rs.10,00,000, whichever is higher, in addition to the consideration of ‘materiality’ as specified in clause 7 of the General Instructions for Preparation of Financial Statements of a Company;
 - (d) interest Income;
 - (e) interest Expense;
 - (f) dividend income;
 - (g) net gain or loss on sale of investments;
 - (h) net gain or loss on foreign currency transaction and translation (other than considered as finance cost);
 - (i) payments to the auditor as (a) auditor, (b) for taxation matters, (c) for company law matters, (d) for other services, (e) for reimbursement of expenses;
 - (j) in case of companies covered under section 135, amount of expenditure incurred on corporate social responsibility activities; and
 - (k) details of items of exceptional nature;

¹[(l) Undisclosed income

The Company shall give details of any transaction not recorded in the books of accounts that has been surrendered or disclosed as income during the year in the tax assessments under the Income Tax Act, 1961 (such as, search or survey or any other relevant provisions of the Income Tax Act, 1961), unless there is immunity for disclosure under any scheme and shall also state whether the previously unrecorded income and related assets have been properly recorded in the books of account during the year.

(m) Corporate Social Responsibility (CSR)

Where the company covered under section 135 of the Companies Act, the following shall be disclosed with regard to CSR activities:-

(i) amount required to be spent by the company during the year,

(ii) amount of expenditure incurred,

(iii) shortfall at the end of the year,

(iv) total of previous years shortfall,

(v) reason for shortfall,

(vi) nature of CSR activities,

(vii) details of related party transactions, e.g., contribution to a trust controlled by the company in relation to CSR expenditure as per relevant Accounting Standard,

(viii) where a provision is made with respect to a liability incurred by entering into a contractual obligation, the movements in the provision during the year shall be shown separately.

(n) details of Crypto Currency or Virtual Currency

Where the Company has traded or invested in Crypto currency or Virtual Currency during the financial year, the following shall be disclosed:-

(i) profit or loss on transactions involving Crypto currency or Virtual Currency,

(ii) amount of currency held as at the reporting date,

(iii) deposits or advances from any person for the purpose of trading or investing in Crypto Currency or virtual currency.]

8. Changes in Regulatory Deferral Account Balances shall be presented in the Statement of Profit and Loss in accordance with the relevant Indian Accounting Standards.

PART III- GENERAL INSTRUCTIONS FOR THE PREPARATION OF CONSOLIDATED FINANCIAL STATEMENTS

1. Where a company is required to prepare Consolidated Financial Statements, *i.e.*, consolidated balance sheet, consolidated statement of changes in equity and consolidated statement of profit and loss, the company shall *mutatis mutandis* follow the requirements of this Schedule as applicable to a company in the preparation of balance sheet, statement of changes in equity and statement of profit and loss. In addition, the consolidated financial statements shall disclose the information as per the requirements specified in the applicable Indian Accounting Standards notified under the Companies (Indian Accounting Standards) Rules 2015, including the following, namely:-

(i) Profit or loss attributable to ‘non-controlling interest’ and to ‘owners of the parent’ in the statement of profit and loss shall be presented as allocation for the period. Further, ‘total comprehensive income’ for the period attributable to ‘non-controlling interest’ and to ‘owners of the parent’ shall be presented in the statement of profit and loss as allocation for the period. The aforesaid disclosures for ‘total comprehensive income’ shall also be made in the statement of changes in equity. In addition to the disclosure requirements in the Indian Accounting Standards, the aforesaid disclosures shall also be made in respect of ‘other comprehensive income’.

(ii) ‘Non-controlling interests’ in the Balance Sheet and in the Statement of Changes in Equity, within equity, shall be presented separately from the equity of the ‘owners of the parent’.

(iii) Investments accounted for using the equity method.

1. Ins. by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

2. In Consolidated Financial Statements, the following shall be disclosed by way of additional information:

Name of the entity in the Group	Net Assets, i.e., total assets minus total		Share in profit or loss		Share in other comprehensive income		Share in total comprehensive income	
	As % of consolidated net assets	Amount	As % of consolidated profit or	Amount	As % of consolidated other	Amount	As % of total comprehensive income	Amount
Parent								
Subsidiaries								
Indian								
1.								
2.								
3.								
.								
.								
Foreign								
1.								
2.								
3.								
.								
.								
Non-controlling Interests in all								

Foreign							
1.							
2.							
3.							
.							
Joint Ventures (investment as per the equity method)							
Indian							
1.							
2.							
3.							
.							
Foreign							
1.							
2.							
3.							
.							
Total							

3. All subsidiaries, associates and joint ventures (whether Indian or foreign) will be covered under consolidated financial statements.

4. An entity shall disclose the list of subsidiaries or associates or joint ventures which have not been consolidated in the consolidated financial statements along with the reasons of not consolidating.]

¹[Division III]

Financial Statements for a Non-Banking Financial Company (NBFC) whose financial statements are drawn up in compliance of the Companies (Indian Accounting Standards) Rules, 2015.

GENERAL INSTRUCTIONS FOR PREPARATION OF FINANCIAL STATEMENTS OF A NON-BANKING FINANCIAL COMPANY (NBFC) THAT IS REQUIRED TO COMPLY WITH INDIAN ACCOUNTING STANDARDS (Ind AS)

1. Every Non-Banking Financial company as defined in the Companies (Indian Accounting Standards) (Amendment) Rules, 2016 to which Indian Accounting Standards apply, shall prepare its financial statements in accordance with this Schedule or with such modification as may be required under certain circumstances.
2. Where compliance with the requirements of relevant Act, Regulations, Guidelines or Circulars issued by the relevant regulator from time to time including Indian Accounting Standards (Ind AS) (except the option of presenting assets and liabilities in accordance with current, non-current classification as provided by relevant Ind AS) as applicable to the NBFCs require any change in treatment or disclosure including addition, amendment, substitution or deletion in the head or sub-head or any changes inter se, in the financial statements or statements forming part thereof, the same shall be made and the requirements under this Schedule shall stand modified accordingly.
3. The disclosure requirements specified in this Schedule are in addition to and not in substitution of the disclosure requirements specified in the Indian Accounting Standards. Additional disclosures specified in the Indian Accounting Standards shall be made in the Notes or by way of additional statement or statements unless required to be disclosed on the face of the Financial Statements. Similarly, all other disclosures as required by the Companies Act, 2013 shall be made in the Notes in addition to the requirements set out in this Schedule.

1. Ins. by Notification No. G.S.R. 1022(E), dated 11th October, 2018 (w.e.f. 11-10-2018).

4. (i) Notes shall contain information in addition to that presented in the Financial Statements and shall provide where required-
 - (a) narrative descriptions or disaggregations of items recognised in those statements; and
 - (b) information about items that do not qualify for recognition in those statements.

(ii) Each item on the face of the Balance Sheet, Statement of Changes in Equity and Statement of Profit and Loss shall be cross-referenced to any related information in the Notes. In preparing the Financial Statements including the Notes, a balance shall be maintained between providing excessive details that may not assist users of Financial Statements and not providing important information as a result of too much aggregation.
5. Depending upon the total income of the NBFC, the figures appearing in the Financial Statements shall be rounded off as below:

Total Income	Rounding off
(i) less than one hundred crore rupees	To the nearest hundreds, thousands, lakhs or millions, or decimals thereof.
(ii) one hundred crore rupees or more	To the nearest, lakhs, millions or crores, or decimals thereof.

Once a unit of measurement is used, it should be used uniformly in the Financial Statements.

6. Financial Statements shall contain the corresponding amounts (comparatives) for the immediately preceding reporting period for all items shown in the Financial Statements including Notes except in the case of first Financial Statements after incorporation.
7. Financial Statements shall disclose all ‘material’ items, i.e., the items if they could, individually or collectively, influence the economic decisions that users make on the basis of the financial statements. Materiality depends on the size or nature of the item or a combination of both, to be judged in the particular circumstances.
8. For the purpose of this Schedule, the terms used herein shall have the same meanings assigned to them in Indian Accounting Standards.
9. Where any Act, Regulation, Guidelines or Circulars issued by the relevant regulators from time to time requires specific disclosures to be made in the standalone financial statements of an NBFC, the said disclosures shall be made in addition to those required under this Schedule.
10. The NBFCs preparing financial statements as per this Schedule may change the order of presentation of line items on the face of financial statements or order of line items within the schedules in order of liquidity, if appropriate, considering the operations performed by the NBFC.

Note: This Schedule sets out the minimum requirements for disclosure on the face of the Financial Statements, i.e., Balance Sheet, Statement of Changes in Equity for the period, the Statement of Profit and Loss for the period (The term ‘Statement of Profit and Loss’ has the same meaning as ‘Profit and Loss Account’) and Notes. Cash flow statement shall be prepared, where applicable, in accordance with the requirements of the relevant Indian Accounting Standard.

Line items, sub-line items and sub-totals shall be presented as an addition or substitution on the face of the Financial Statements when such presentation is relevant to an understanding of the NBFC’s financial position or performance or to cater to categories of NBFCs as prescribed by the relevant regulator or sector-specific disclosure requirements or when required for compliance with the amendments to the relevant statutes or under the Indian Accounting Standards.

PART I –BALANCE SHEET

Name of the Non-Banking Financial Company.....

Balance Sheet as at

	<i>Particulars</i>	Note No.	Figures as at the end of current reporting period	Figures as at the end of the previous reporting period
	1		2	3
	ASSETS			
(1)	Financial Assets			
(a)	Cash and cash equivalents			
(b)	Bank Balance other than (a) above			
(c)	Derivative financial instruments			
(d)	Receivables			
	(I) Trade Receivables			
	(II) Other Receivables			
(e)	Loans			
(f)	Investments			
(g)	Other Financial assets (to be specified)			
(2)	Non-financial Assets			
(a)	Inventories			
(b)	Current tax assets (Net)			
(c)	Deferred tax Assets (Net)			
(d)	Investment Property			
(e)	Biological assets other than bearer plants			
(f)	Property, Plant and Equipment			
(g)	Capital work-in-progress			
(h)	Intangible assets under development			
(i)	Goodwill			
(j)	Other Intangible assets			
(k)	Other non-financial assets (to be specified)			
	Total Assets			

	LIABILITIES AND EQUITY			
	LIABILITIES			
(1)	Financial Liabilities			
(a)	Derivative financial instruments			
(b)	Payables			
	(I) Trade Payables			
	(i) total outstanding dues of micro enterprises and small enterprises			
	(ii) total outstanding dues of creditors other than micro enterprises and small enterprises			
	(II) Other Payables			
	(i) total outstanding dues of micro enterprises and small enterprises			
	(ii) total outstanding dues of creditors other than micro enterprises and small enterprises			
(c)	Debt Securities			
(d)	Borrowings (Other than Debt Securities)			
(e)	Deposits			
(f)	Subordinated Liabilities			
(g)	Other financial liabilities(to be specified)			
(2)	Non-Financial Liabilities			
(a)	Current tax liabilities (Net)			
(b)	Provisions			
(c)	Deferred tax liabilities (Net)			
(d)	Other non-financial liabilities(to be specified)			
(3)	EQUITY			
(a)	Equity Share capital			
(b)	Other Equity			
	Total Liabilities and Equity			

See accompanying notes to the financial statements

¹[STATEMENT OF CHANGES IN EQUITY]

Name of the Company.....

A. Equity Share Capital

(1) Current reporting period

Balance at the beginning of the current reporting period	Changes in Equity Shares Capital due to prior period errors	Restated balance at the beginning of the current reporting period	Changes in equity share capital during the current year	Balance at the end of the Current reporting period

1. Subs. by Notification No. G.S.R. 207(E), dated 24th March, 2021, for the Heading “Statement of Changes in Equity” (w.e.f. 1-4-2021).

(2) Previous reporting period

Balance at the beginning of the previous reporting period	Changes in Equity Shares Capital due to prior period errors	Restated balance at the beginning of the previous reporting period	Changes in equity share capital during the previous year	Balance at the end of the previous reporting period

B. Other Equity

(1) Current reporting period

	Share application Money pending allotment	Equity Component of compound financial instruments	Reserves and Surplus									Money received against share warrants	Total
			Capital Reserve	Securities Premium	Other Reserves (specify nature)	Retained Earnings	Debt instrument through Other Comprehensive Income	Equity Instruments through Other Comprehensive Income	Effective Portion of Cash Flow Hedges	Revaluation Surplus	Exchange Differences On translating the financial statements of a foreign		
Balance at the beginning of the current reporting period													
Changes in accounting Policy/prior Period errors													
Restated balance at the beginning of the current reporting period													
Total Comprehensive Income for the current year													
Dividends													
Transfer to retained earnings													
Any other Change (to be specified)													
Balance at the end of the current Reporting period													

(2) Previous reporting period

	Share application Money pending allotment	Equity Component of compound financial instruments	Reserves and Surplus									Money received against share warrants	Total
			Capital Reserve	Securities Premium	Other Reserves (specify nature)	Retained Earnings	Debt instrument through Other Comprehensive Income	Equity Instruments through Other Comprehensive Income	Effective Portion of Cash Flow Hedges	Revaluation Surplus	Exchange Differences On translating the financial statements of a foreign		
Balance at the beginning of the previous reporting period													
Changes in accounting policy/prior Period errors													
Restated balance at the beginning of the previous reporting period													
Total Comprehensive													

Income for the previous year												
Dividends												
Transfer to retained earnings												
Any other change (to be specified)												
Balance at the end of the previous reporting period												

Note: Remeasurement of defined benefit plans and fair value changes relating to own credit risk of financial liabilities designated at fair value through profit or loss shall be recognised as a part of retained earnings with separate disclosure of such items alongwith the relevant amounts in the Notes or shall be shown as a separate column under Reserves and Surplus.]

Notes

GENERAL INSTRUCTIONS FOR PREPARATION OF BALANCESHEET

A Non-Banking Financial company shall disclose the following in the notes to accounts:

(A) Cash and cash equivalents: Cash and cash equivalents shall be classified as:

- (i) Cash on hand
- (ii) Balances with Banks (of the nature of cash and cash equivalents);
- (iii) Cheques, drafts on hand; and
- (iv) Others (specify nature).

Cash and Bank balances: The following disclosures with regard to cash and bank balances shall be made:

- (i) Earmarked balances with banks (for example, for unpaid dividend) shall be separately stated.
- (ii) Balances with banks to the extent held as margin money or security against the borrowings, guarantees, other commitments shall be disclosed separately.
- (iii) Repatriation restrictions, if any, in respect of cash and bank balances shall be separately stated.

(B) Derivative financial Instruments

1 Explain use of derivatives

2 Cross-reference to Financial Risks section for management of risks arising from derivatives

Part I	(Current Year)			(Previous Year)		
	Notional amounts	Fair Value - Assets	Fair Value - Liabilities	Notional amounts	Fair Value - Assets	Fair Value - Liabilities
(i)Currency derivatives:						
-Spot and forwards						
-Currency Futures						
-Currency swaps						
-Options purchased						
-Options sold (written)						
-Others						
Sub total (i)						
(ii)Interest rate derivatives						
-Forward Rate Agreements and Interest Rate Swaps						
-Options purchased						

-Options sold (written)						
-Futures						
-Others						
Subtotal(ii)						
(iii) Credit derivatives						
(iv) Equity linked derivatives						
(v) Other derivatives (Please specify)						
Total Derivative Financial Instruments (i)+(ii)+(iii)+(iv)+(v)						
Part II						
Included in above (Part I) are derivatives held for hedging and risk management purposes as follows:						
(i) Fair value hedging:						
- Currency derivatives						
- Interest rate derivatives						
- Credit derivatives						
- Equity linked derivatives						
- Others						
Sub total (i)						
(ii) Cash flow hedging:						
- Currency derivatives						
- Interest rate derivatives						
- Credit derivatives						
- Equity linked derivatives						

- Others						
Sub total (ii)						
(iii) Net investment hedging:						
(iv) Undesignated Derivatives						
Total Derivative Financial Instruments (i)+(ii)+(iii)+(iv)						

With respect to hedges and hedge accounting, NBFCs may provide a description in accordance with the requirements of Indian Accounting Standards, of how derivatives are used for hedging, explain types of hedges recognized for accounting purposes and their usage/application by the entity.

(C) Receivables:

(i) Receivables shall be sub-classified as:

- (a) Receivables considered good - Secured;
- (b) Receivables considered good - Unsecured;
- (c) Receivables which have significant increase in Credit Risk; and
- (d) Receivables - credit impaired

(ii) Allowance for impairment loss allowance shall be disclosed under the relevant heads separately.

(iii) Debts due by directors or other officers of the NBFC or any of them either severally or jointly with any other person or debts due by firms including limited liability partnerships (LLPs), private companies respectively in which any director is a partner or a director or a member should be separately stated.

¹[(iv) For trade receivable outstanding, following ageing schedule shall be given:

Trade Receivables aging schedule

Particulars	Outstanding for following periods from due date of payment#					(Amount in Rs.)
	Less than 6 months	6 months - 1 year	1-2 years	2-3 years	More than 3 years	
(i) Undisputed Trade receivables - Considered good (ii) Undisputed Trade Receivable – which have significant increase in credit risk (iii) Undisputed Trade Receivables – credit Impaired (iv) Disputed Trade Receivables-considered good (v) Disputed Trade Receivables- which have significant increase in credit risk (vi) Disputed Trade Receivables – credit impaired						

1. Ins. by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

#similar information shall be given where no due date of payment is specified in that case disclosure shall be from the date of the transaction.

Unbilled dues shall be disclosed separately]

(D) Loans

	(Current Year)					(Previous Year)						
	Amor-tised cost	At Fair Value			Sub total	Total	Amor-tised cost	At Fair Value				
		Through Other Comprehensive Income	Through profit or loss	Designat-ed at fair value through profit or loss				Through Other Comprehensive Income	Through profit or loss	Designat-ed at fair value through profit or loss		
	(1)	(2)	(3)	(4)	(5=2+3+4)	(6=1+5)	(7)	(8)	(9)	(10)	(11=8+9+10)+(11)	
Loans												
(A)												
(i) Bills Purchased and Bills Discounted												
(ii) Loans repayable on Demand												
(iii) Term Loans												
(iv) Leasing												
(v) Factoring												
(vi) Others (to be specified)												
Total (A) -Gross												
Less: Impairment loss allowance												
Total (A) - Net												
(B)												
(i) Secured by tangible assets												
(ii) Secured by intangible assets												
(iii) Covered by Bank/Government Guarantees												
(iv) Unsecured												
Total (B)-Gross												
Less: Impairment loss allowance												
Total (B)-Net												
(C) (I) Loans in India												
(i) Public Sector												
(ii) Others (to be specified)												
Total (C)- Gross												
Less: Impairment loss allowance												
Total(C) (I)-Net												
(C) (II)Loans outside India												
Less: Impairment loss allowance												
Total (C) (II)- Net												
Total C(I) and C(II)												

(E) Investments

Investments														
Invest- vest- ments	(Current Year)							(Previous Year)						
	Amor- tised cost	At Fair Value			Oth- ers*	Total	Amor- tised cost	At Fair Value			Oth- ers*	Total		
		Through Other Compre- hensive Income	Thro- ugh profit or loss	Desig- nated at fair value through profit or loss				Through Other Compre- hensive Income	Thro- ugh profit or loss	Desig- nated at fair value throug h profit or loss				
	(1)	(2)	(3)	(4)	(5)=(2)+ (3)+(4)	(6)	(7)=(1) +(5)+(6)	(8)	(9)	(10)	(11)	(12)=(9)+ (10)+(11)	(13)	(14)=(8)+ (12)+(13)
Mutual funds														
Gov- ernment securi- ties														
Other ap- proved securi- ties														
Debt securi- ties														
Equity instru- ments														
Subsid- aries														
Associates														
Joint Ven- tures														
Others (specify)														
Total – Gross (A)														
(i) Invest- ments outside India														
(ii) Invest- ments in India														
Total (B)														
Total (A) to tally with (B)														
Less: Allow- ance for Impair- pair- ment loss (C)														
Total – Net D= (A)-(C)														

(F) Investment Property

A reconciliation of the gross and net carrying amounts of each class of property at the beginning and end of the reporting period showing additions, disposals, acquisitions through business combinations and other adjustments and the related depreciation and impairment losses or reversals shall be disclosed separately.

(G) Biological Assets other than bearer plants:

A reconciliation of the carrying amounts of each class of assets at the beginning and end of the reporting period showing additions, disposals, acquisitions through business combinations and other adjustments shall be disclosed separately.

(H) Property, Plant and Equipment

(i) Classification shall be given as:

- (a) Land
- (b) Buildings
- (c) Plant and Equipment
- (d) Furniture and Fixtures
- (e) Vehicles
- (f) Office equipment
- (g) Bearer Plants
- (h) Others (specify nature)

(ii) Assets under lease shall be separately specified under each class of asset.

¹[(iii) reconciliation of the gross and net carrying amounts of each class of assets at the beginning and end of the reporting period showing additions, disposals, acquisitions through business combinations, amount of change due to revaluation (if change is 10% or more in the aggregate of the net carrying value of each class of Property, Plant and Equipment) and other adjustments and the related depreciation and impairment losses or reversals shall be disclosed separately.]

(I) Goodwill

A reconciliation of the gross and net carrying amount of goodwill at the beginning and end of the reporting period showing additions, impairments, disposals and other adjustments.

(J) Other Intangible assets

(iii) Classification shall be given as:

- (a) Brands or trademarks
- (b) Computer software
- (c) Mastheads and publishing titles
- (d) Mining rights
- (e) Copyrights, patents, other intellectual property rights, services and operating rights
- (f) Recipes, formulae, models, designs and prototypes
- (g) Licenses and franchises
- (h) Others (specify nature)

²[(ii) A reconciliation of the gross and net carrying amounts of each class of assets at the beginning and end of the reporting period showing additions, disposals, acquisitions through business combinations, amount of change due to revaluation (if change is 10% or more in the aggregate of the net carrying value of each class of intangible assets) and other adjustments and the related amortization and impairment losses or reversals shall be disclosed separately.]

(K) Payables

The following details relating to Micro, Small and Medium Enterprises shall be disclosed:

- (a) the principal amount and the interest due thereon (to be shown separately) remaining unpaid to any supplier at the

1. Subs. by Notification No. G.S.R. 207(E), dated 24th March, 2021, for item (iii) (w.e.f. 1-4-2021).

2. Subs. by Notification No. G.S.R. 207(E), dated 24th March, 2021, for item (ii) (w.e.f. 1-4-2021).

end of each accounting year;

- (b) the amount of interest paid by the buyer in terms of section 16 of the Micro, Small and Medium Enterprises Development Act, 2006, along with the amount of the payment made to the supplier beyond the appointed day during each accounting year;
- (c) the amount of interest due and payable for the period of delay in making payment (which have been paid but beyond the appointed day during the year) but without adding the interest specified under the Micro, Small and Medium Enterprises Development Act, 2006;
- (d) the amount of interest accrued and remaining unpaid at the end of each accounting year; and
- (e) the amount of further interest remaining due and payable even in the succeeding years, until such date when the interest dues above are actually paid to the small enterprise, for the purpose of disallowance of a deductible expenditure under section 23 of the Micro, Small and Medium Enterprises Development Act, 2006.

Explanation.— The terms ‘appointed day’, ‘buyer’, ‘enterprise’, ‘micro enterprise’, ‘small enterprise’ and ‘supplier’, shall have the same meaning assigned to those under clauses (b), (d), (e), (h), (m) and (n) respectively of section 2 of the Micro, Small and Medium Enterprises Development Act, 2006.”

¹[(KA) For trade payables due for payment, following ageing schedule shall be given:

Trade Payables ageing schedule

(Amount in Rs.)

Particulars	Outstanding for following periods from due date of payment#				Total
	Less than 1 year	1-2 years	2-3 years	More than 3 years	
(i) MSME					
(ii) Others					
(iii) Disputed dues- MSME					
(iv) Disputed dues- Others					

#similar information shall be given where no due date of payment is specified in that case disclosure shall be from the date of the transaction.

Unbilled dues shall be disclosed separately]

(L) Debt Securities

	(Current Year)				(Previous Year)			
	At Amortised Cost	At Fair Value Through profit or loss	Designated at fair value through profit or loss	Total	At Amortised Cost	At Fair Value Through profit or loss	Designated at fair value through profit or loss	Total
(1)	(2)	(3)	(4)=(1)+(2)+(3)	(5)	(6)	(7)	(8)=(5)+(6)+(7)	
Liability component of compound financial instruments								
Others (Bonds/ Debenture etc.)								
Total (A)								
Debt securities in India								
Debt securities outside India								

1. Ins. by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

Total (B) to tally with (A)							
------------------------------------	--	--	--	--	--	--	--

(i) bonds or debentures (along with the rate of interest, and particulars of redemption or conversion, as the case may be) shall be stated in descending order of maturity or conversion, starting from earliest redemption or conversion date, as the case may be. Where bonds/debentures are redeemable by installments, the date of maturity for this purpose must be reckoned as the date on which the first installment becomes due;

(ii) particulars of any redeemed bonds or debentures which the NBFC has power to reissue shall be disclosed.

(M) Borrowings (Other than Debt Securities)

	(Current Year)				(Previous Year)			
	At Amortised Cost	At fair value Through profit or loss	Designated at fair value through profit or loss	Total	At Amortised Cost	At fair value Through profit or loss	Designated at fair value through profit or loss	Total
	(1)	(2)	(3)	(4)=(1)+(2)+(3)	(1)	(2)	(3)	(4)=(1)+(2)+(3)
(a) Term loans								
(i) from banks								
(ii) from other parties								
(b) Deferred payment liabilities								
(c) Loans from related parties								
(d) Finance lease obligations								
(e) Liability component of compound financial instruments								
(f) Loans repayable on demand								
(i) from banks								
(ii) from other parties								
(g) Other loans (specify nature)								
Total (A)								
Borrowings in India								
Borrowings outside India								
Total (B) to tally with (A)								

- (i) Borrowings shall further be sub-classified as secured and unsecured. Nature of security shall be specified separately in each case.
- (ii) Where borrowings have been guaranteed by directors or others, the aggregate amount of such borrowings under each head shall be disclosed;
- (iii) terms of repayment of term loans and other loans shall be stated; and
- (iv) period and amount of default as on the balance sheet date in repayment of borrowings and interest shall be specified separately in each case.

(N) Deposits

	(Current Year)				(Previous Year)			
	At Amortised Cost	At fair value Through profit or loss	Designated at fair value through profit or loss	Total	At Amortised Cost	At fair value Through profit or loss	Designated at fair value through profit or loss	Total
	(1)	(2)	(3)	(4)=(1)+(2)+(3)	(5)	(6)	(7)	(8)=(5)+(6)+(7)
Deposits								
(i) Public Deposits								

(ii) From Banks								
(iii) From Others								
Total								

(O) Subordinated Liabilities

	(Current Year)				(Previous Year)			
	At Amortised Cost	At fair value through profit or loss	Designated at fair value through profit or loss	Total	At Amortised Cost	At fair value through profit or loss	Designated at fair value through profit or loss	Total
	(1)	(2)	(3)	(4)=(1)+(2)+(3)	(5)	(6)	(7)	(8)=(5)+(6)+(7)
Perpetual Debt Instruments to the extent that do not qualify as equity								
Preference Shares other than those that qualify as Equity								
Others (specifying the nature and type of instrument issued)								
Total (A)								
Subordinated Liabilities in India								
Subordinated Liabilities outside India								
Total (B) to tally with (A)								

(P) Other Financial Liabilities (to be specified): Other Financial liabilities shall be classified as-

- (a) Interest accrued;
- (b) Unpaid dividends;
- (c) Application money received for allotment of securities to the extent refundable and interest accrued thereon;
- (d) Unpaid matured deposits and interest accrued thereon;
- (e) Unpaid matured debentures and interest accrued thereon;
- (f) Margin money (to be specified);and
- (g) Others (specify nature)

(Q) Provisions: The amounts shall be classified as-

- (a) Provision for employee benefits; and
- (b) Others (specify nature)

(R) Other Non-financial liabilities (to be specified):

- (a) Revenue received in advance;
- (b) Other advances (Specify nature); and

(c) Others (specify nature).

(S) Equity Share Capital : For each class of equity share capital:

- (a) the number and amount of shares authorized;
- (b) the number of shares issued, subscribed and fully paid, and subscribed but not fully paid;
- (c) par value per share;
- (d) a reconciliation of the number of shares outstanding at the beginning and at the end of the period;
- (e) the rights, preferences and restrictions attaching to each class of shares including restrictions on the distribution of dividends and the repayment of capital;
- (f) shares in respect of each class in the company held by its holding company or its ultimate holding company including shares held by or by subsidiaries or associates of the holding company or the ultimate holding company in aggregate;
- (g) shares in the company held by each shareholder holding more than five percent shares specifying the number of shares held;
- (h) shares reserved for issue under options and contracts/commitments for the sale of shares or disinvestment, including the terms and amounts;
- (i) For the period of five years immediately preceding the date at which the Balance Sheet is prepared:
 - Aggregate number and class of shares allotted as fully paid up pursuant to contract without payment being received in cash;
 - Aggregate number and class of shares allotted as fully paid up by way of bonus shares; and
 - Aggregate number and class of shares bought back;
- (j) terms of any securities convertible into equity shares issued along with the earliest date of conversion in descending order starting from the farthest such date;
- (k) calls unpaid (showing aggregate value of calls unpaid by directors and officers);
- (l) forfeited shares (amount originally paid up)
- (m) An NBFC shall disclose information that enables users of its financial statements to evaluate the NBFC's objectives, policies and processes for managing capital.

¹[(n) A Company shall disclose Shareholding of Promoter* as below:

Shares held by promoters at the end of the year			% Change during the year***
S.No	Promoter Name	No. of Shares**	% of total shares**
Total			

*Promoter here means promoter as defined in the Companies Act, 2013.

** Details shall be given separately for each class of shares

*** percentage change shall be computed with respect to the number at the beginning of the year or if issued during the year for the first time then with respect to the date of issue.]

(T) Other Equity

- (i) Other Reserves' shall be classified in the notes as:
 - (a) Capital Redemption Reserve;
 - (b) Debenture Redemption Reserve;
 - (c) Share Options Outstanding Account;
 - (d) Statutory Reserves; and
 - (e) Others – (specify the nature and purpose of each reserve and the amount in respect thereof);
(Additions and deductions since last balance sheet to be shown under each of the specified heads)
- (iii) Retained Earnings represents surplus i.e. balance of the relevant column in the Statement of Changes in

1. Ins. by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

Equity;

- (iv) A reserve specifically represented by earmarked investments shall disclose the fact that it is so represented;
- (v) Debit balance of Statement of Profit and Loss shall be shown as a negative figure under the head ‘retained earnings’. Similarly, the balance of ‘Other Equity’, after adjusting negative balance of retained earnings, if any, shall be shown under the head ‘Other Equity’ even if the resulting figure is in the negative;
- (vi) Under the sub-head ‘Other Equity’, disclosure shall be made for the nature and amount of each item; and
- (vii) Under the sub-head ‘Other Equity’, disclosure shall be made for conditions or restrictions for distribution attached to statutory reserves.

(U) Contingent Liabilities and commitments (to the extent not provided for)

- (i) Contingent Liabilities shall be classified as:
 - (a) Claims against the company not acknowledged as debt;
 - (b) Guarantees excluding financial guarantees; and
 - (c) Other money for which the company is contingently liable
- (ii) Commitments shall be classified as:
 - (a) Estimated amount of contracts remaining to be executed on capital account and not provided for;
 - (b) Uncalled liability on shares and other investments partly paid;
 - (c) Other commitments (specify nature).

(V) The amount of dividends proposed to be distributed to equity and preference shareholders for the period and the related amount per share shall be disclosed separately. Arrears of fixed cumulative dividends on irredeemable preference shares shall also be disclosed separately.

(W) Where in respect of an issue of securities made for a specific purpose the whole or part of amount has not been used for the specific purpose at the Balance Sheet date, there shall be indicated by way of note how such unutilized amounts have been used or invested.

¹[**(WA)** Where the company has not used the borrowings from banks and financial institution for the specific purpose for which it was taken at the balance sheet date, the company shall disclose the details of where they have been used;

(WB) Additional Regulatory Information

(i) Title deeds of Immovable Properties not held in name of the Company

The company shall provide the details of all the immovable property (other than properties where the Company is the lessee and the lease agreements are duly executed in favour of the lessee) whose title deeds are not held in the name of the company in following format and where such immovable property is jointly held with others, details are required to be given to the extent of the company’s share.

Relevant line item in the Balance sheet	Description of item of property	Gross carrying value	Title deeds held in the name of	Whether title deed holder is promoter, director or relative # of promoter/director or employee of promoter/director	Property held since which date	Reason for not being held in the name of the company**
PPE - Investment Property -	Land Building	-	-	-	-	*** also Indicate if in dispute
Non-current asset held for sale	Land Building					

others						
--------	--	--	--	--	--	--

#Relative here means relative as defined in the Companies Act, 2013.

*Promoter here means promoter as defined in the Companies Act, 2013.

(ii) The company shall disclose as to whether the fair value of investment property (as measured for disclosure purposes in the financial statements) is based on the valuation by a registered valuer as defined under rule 2 of Companies (Registered Valuers and Valuation) Rules, 2017.

(iii) Where the Company has revalued its **Property, Plant and Equipment** (including Right-of-Use Assets), the company shall disclose as to whether the revaluation is based on valuation by a Registered Valuer as defined under rule 2 of Companies (Registered Valuers and Valuation) Rules, 2017.

(iv) Where the Company has revalued its Intangible assets, the company shall disclose as to whether the revaluation is based on valuation by a Registered Valuer as defined under rule 2 of Companies (Registered Valuers and Valuation) Rules, 2017.

(v) Following disclosures shall be made where loans or advances in the nature of loans are granted to promoters, directors, KMPs and the related parties (as defined under the Companies Act, 2013), either severally or jointly with any other person that are:

(a) repayable on demand or

(b) without specifying any terms or period of repayment

Type of Borrower	Amount of loan or advances in the nature of loan outstanding	Percentage to the total Loans and Advances in the nature of loans
Promoter		
Directors		
KMPs		
Related parties		

(iv) Capital-work-in Progress (CWIP)

(a) For Capital-work-in progress, following ageing schedule shall be given:

CWIP aging schedule

(Amount in Rs.)

CWIP	Amount in CWIP for a period of				Total*
	Less than 1 year	1-2 years	2-3 years	More than 3 years	
Projects in progress					
Projects temporarily suspended					

*Total shall tally with CWIP amount in the balance sheet.

(b) For capital-work-in progress, whose completion is overdue or has exceeded its cost compared to its original plan, following CWIP completion schedule shall be given**:

(Amount in Rs.)

CWIP	To be completed in			
	Less than 1 year	1-2 years	2-3 years	More than 3 years
Project 1				

Project 2”				
------------	--	--	--	--

** Details of projects where activity has been suspended shall be given separately.

(vii) Intangible assets under development:

(a) For Intangible assets under development, following ageing schedule shall be given:

Intangible assets under development aging schedule

Intangible assets under development	Amount in CWIP for a period of				(Amount in Rs.) Total*
	Less than 1 year	1-2 years	2-3 years	More than 3 years	
Projects in progress					
Projects temporarily suspended					

*Total shall tally with the amount of Intangible assets under development in the balance sheet.

(b) For Intangible assets under development, whose completion is overdue or has exceeded its cost compared to its original plan, following Intangible assets under development completion schedule shall be given**:

Intangible assets under development	To be completed in				(Amount in Rs.)
	Less than 1 year	1-2 years	2-3 years	More than 3 years	
Project 1					
Project 2					

**Details of projects where activity has been suspended shall be given separately.

(viii) Details of Benami Property held

Where any proceedings have been initiated or pending against the company for holding any benami property under the Benami Transactions (Prohibition) Act, 1988 (45 of 1988) and rules made thereunder, the company shall disclose the following:-

- (a) Details of such property,
- (b) Amount thereof,
- (c) Details of Beneficiaries,
- (d) If property is in the books, then reference to the item in the Balance Sheet,
- (e) If property is not in the books, then the fact shall be stated with reasons,
- (f) Where there are proceedings against the company under this law as an abetter of the transaction or as the transferor then the details shall be provided.
- (g) Nature of proceedings, status of same and company's view on same.

(ix) Where the Company has borrowings from banks or financial institutions on the basis of security of current assets, it shall disclose the following:-

- (a) whether quarterly returns or statements of current assets filed by the Company with banks or financial institutions are in agreement with the books of accounts,
- (b) if not, summary of reconciliation and reasons of material discrepancies if any to be adequately disclosed.

(X) Wilful Defaulter*

Where a company is a declared wilful defaulter by any bank or financial Institution or other lender, following details shall be given, namely:-

- (a) date of declaration as wilful defaulter,
- (b) details of defaults (amount and nature of defaults).

*wilful defaulter here means a person or an issuer who or which is categorized as a willful defaulter by any bank or financial institution (as defined under the Companies Act, 2013) or consortium thereof, in accordance with the guidelines on wilful defaulters issued by the Reserve Bank of India.

(xi) Relationship with Struck off Companies

Where the company has any transactions with the companies struck off under section 248 of Companies Act, 2013 or section 560 of Companies Act, 1956, the Company shall disclose the following details,

Name of struck off Company	Nature of transactions with struck-off Company	Balance outstanding	Relationship with the Struck off company, if any, to be disclosed
	Investment in securities		
	Receivables		
	Payables		
	Shares held by stuck off company		
	Other outstanding balances (to be specified)		

(xii) Registration of charges or satisfaction with Registrar of Companies (ROC)

Where any charges or satisfaction yet to be registered with ROC beyond the statutory period, details and reasons thereof shall be disclosed.

(xiii) Compliance with number of layers of companies

Where the company has not complied with the number of layers prescribed under clause (87) of section 2 of the Act read with Companies (Restriction on number of Layers) Rules, 2017, the name and CIN of the companies beyond the specified layers and the relationship/extent of holding of the company in such downstream companies shall be disclosed.

(xiv) Following Ratios shall be disclosed

- (a) Capital to risk-weighted assets ration (CRAR)
- (b) Tier I CRAR
- (C) Tier II CRAR
- (d) Liquidity Coverage Ratio

(xv) Compliance with approved Scheme(s) of Arrangements

Where any Scheme of Arrangements has been approval by the Competent Authority in terms of section 230 to 237 of the Companies Act, 2013, the Company shall disclose that the effect of such Scheme of Arrangements have been accounted for in the books of account of the Company ‘in accordance with the Scheme’ and ‘in accordance with accounting standards’. Any deviation in this regard shall be explained.

(xvi) Utilisation of Borrowed funds and share premium:

(A) Where company has advanced or loaned or invested funds (either borrowed funds or share premium or any other sources or kind of funds) to any other person(s) or entity(ies), including foreign entities (Intermediaries) with the understanding (whether recorded in writing or otherwise) that the Intermediary shall

- (i) directly or indirectly lend or invest in other persons or entities identified in any manner whatsoever by or on behalf of the company (Ultimate Beneficiaries) or

(ii) provide any guarantee, security or the like to or on behalf of the Ultimate Beneficiaries;

the company shall disclose the following:-

(I) date and amount of fund advanced or loaned or invested in Intermediaries with complete details of each Intermediary.

(II) date and amount of fund further advanced or loaned or invested by such Intermediaries to other intermediaries or Ultimate Beneficiaries alongwith complete details of the ultimate beneficiaries.

(III) date and amount of guarantee, security or the like provided to or on behalf of the Ultimate Beneficiaries

(IV) declaration that relevant provisions of the Foreign Exchange Management Act, 1999 (42 of 1999) and Companies Act has been complied with for such transactions and the transactions are not violative of the Prevention of Money-Laundering act, 2002 (15 of 2003).;

(B) Where a company has received any fund from any person(s) or entity(ies), including foreign entities (Funding Party) with the understanding (whether recorded in writing or otherwise) that the company shall

(i) directly or indirectly lend or invest in other persons or entities identified in any manner whatsoever by or on behalf of the Funding Party (Ultimate Beneficiaries) or

(ii) provide any guarantee, security or the like on behalf of the Ultimate Beneficiaries, the company shall disclose the following:-

(I) date and amount of fund received from Funding parties with complete details of each Funding party.

(II) date and amount of fund further advanced or loaned or invested other intermediaries or Ultimate Beneficiaries alongwith complete details of the other intermediaries' or ultimate beneficiaries.

(III) date and amount of guarantee, security or the like provided to or on behalf of the Ultimate Beneficiaries

(IV) declaration that relevant provisions of the Foreign Exchange Management Act, 1999 (42 of 1999) and Companies Act has been complied with for such transactions and the transactions are not violative of the Prevention of Money-Laundering act, 2002 (15 of 2003).]

(X) Other Classification related General Instructions

1. When an NBFC applies an accounting policy retrospectively or makes a restatement of items in the financial statements or when it reclassifies items in its financial statements, the NBFC shall attach to the Balance Sheet, a "Balance Sheet" as at the beginning of the earliest comparative period presented.
2. Share application money pending allotment shall be classified into equity or liability in accordance with relevant Indian Accounting Standards. Share application money to the extent not refundable shall be shown under the head Equity and share application money to the extent refundable shall be separately shown under 'Other financial liabilities'.
3. Preference shares including premium received on issue, shall be classified and presented as 'Equity' or 'Liability' in accordance with the requirements of the relevant Indian Accounting Standards. Accordingly, the disclosure and presentation requirements in this regard applicable to the relevant class of equity or liability shall be applicable *mutatis mutandis* to the preference shares. For instance, plain vanilla redeemable preference shares shall be classified and presented under 'liabilities' as 'borrowings' or 'subordinated liability' and the disclosure requirements in this regard applicable to such borrowings shall be applicable *mutatis mutandis* to redeemable preference shares.
4. Compound financial instruments such as convertible debentures, where split into equity and liability components, as per the requirements of the relevant Indian Accounting Standards, shall be classified and presented under the relevant heads in "Liabilities and Equity".
5. Regulatory Deferral Account Balances shall be presented in the Balance Sheet in accordance with the relevant Indian Accounting Standards.

PART II – STATEMENT OF PROFIT AND LOSS

Name of the Non-Banking Financial Company.....

Statement of Profit and Loss for the period ended

(Rupees in

	Particulars	Note No.	Figures for the current reporting period	Figures for the previous reporting period
	Revenue from operations			
(i)	Interest Income			
(ii)	Dividend Income			
(iii)	Rental Income			
(iv)	Fees and commission Income			
(v)	Net gain on fair value changes			
(vi)	Net gain on derecognition of financial instruments under amortised cost category			
(vii)	Sale of products(including Excise Duty)			
(viii)	Sale of services			
(ix)	Others (to be specified)			
(I)	Total Revenue from operations			
(II)	Other Income (to be specified)			
(III)	Total Income (I+II)			
	Expenses			
(i)	Finance Costs			
(ii)	Fees and commission expense			
(iii)	Net loss on fair value changes			
(iv)	Net loss on derecognition of financial instruments under amortised cost category			
(v)	Impairment on financial instruments			
(vi)	Cost of materials consumed			
(vii)	Purchases of Stock-in-trade			
(viii)	Changes in Inventories of finished goods, stock-in-trade and work-in- progress			
(ix)	Employee Benefits Expenses			
(x)	Depreciation, amortization and impairment			
(xi)	Others expenses (to be specified)			
(IV)	Total Expenses (IV)			
(V)	Profit / (loss) before exceptional items and tax (III-IV)			
(VI)	Exceptional items			
(VII)	Profit/(loss) before tax (V -VI)			
(VIII)	Tax Expense: (1) Current Tax (2) Deferred Tax			

	Particulars	Note No.	Figures for the current reporting period	Figures for the previous reporting period
	Revenue from operations			
(IX)	Profit / (loss) for the period from continuing operations(VII-VIII)			
(X)	Profit/(loss) from discontinued operations			
(XI)	Tax Expense of discontinued operations			
(XII)	Profit/(loss) from discontinued operations(After tax) (X-XI)			
(XIII)	Profit/(loss) for the period (IX+XII)			
(XIV)	Other Comprehensive Income			
	(A) (i) Items that will not be reclassified to profit or loss (specify items and amounts)			
	(ii) Income tax relating to items that will not be reclassified to profit or loss			
	Subtotal (A)			
	(B) (i) Items that will be reclassified to profit or loss (specify items and amounts)			
	(ii) Income tax relating to items that will be reclassified to profit or loss			
	Subtotal (B)			
	Other Comprehensive Income (A + B)			
(XV)	Total Comprehensive Income for the period (XIII+XIV) (Comprising Profit (Loss) and other Comprehensive Income for the period)			
(XVI)	Earnings per equity share (for continuing operations)			
	Basic (Rs.)			
	Diluted (Rs.)			
(XVII)	Earnings per equity share (for discontinued operations)			
	Basic (Rs.)			
	Diluted (Rs.)			
(XVIII)	Earnings per equity share (for continuing and discontinued operations)			
	Basic (Rs.)			
	Diluted (Rs.)			

See accompanying notes to the financial statements

Notes

GENERAL INSTRUCTIONS FOR PREPARATION OF STATEMENT OF PROFIT AND LOSS

1. The provisions of this Part shall apply to the income and expenditure account, in like manner as they apply to a Statement of Profit and Loss.
2. The Statement of Profit and Loss shall include:
 - (A) Profit or loss for the period;
 - (B) Other Comprehensive Income for the period.

The sum of (A) and (B) above is ‘Total Comprehensive Income’.

3. Interest Income

Particulars	(Current Year)			(Previous Year)		
	On Financial Assets measured at fair value through OCI	On Financial Assets measured at Amortised Cost	Interest Income on Financial Assets classified at fair value through profit or loss	On Financial Assets measured at fair value through OCI	On Financial Assets measured at Amortised Cost	Interest Income on Financial Assets classified at fair value through profit or loss
Interest on Loans						
Interest income from investments						
Interest on deposits with Banks						
Other interest Income						
Total						

4. Net gain/ (loss) on fair value changes*

Particulars	(Current Year)	(Previous Year)
(A) Net gain/ (loss) on financial instruments at fair value through profit or loss		
(i) On trading portfolio		
- Investments		
- Derivatives		
- Others		
(ii) On financial instruments designated at fair value through profit or loss		
(B) Others (to be specified)		
Total Net gain/(loss) on fair value changes (C)		
Fair Value changes:		
-Realised		
-Unrealised		
Total Net gain/(loss) on fair value changes(D) to tally with (C)		

*Fair value changes in this schedule are other than those arising on account of accrued interest income/expense.

5. Other Income (to be specified)

Particulars	(Current Year)	(Previous Year)
Net gain/(loss) on ineffective portion of hedges		
Net gain/(loss) on derecognition of property, plant and equipment		
Net gain or loss on foreign currency transaction and translation (other than considered as finance cost)(to be specified)		
Others (to be specified)*		
Total		

* Any item under the subhead ‘Others’ which exceeds one per cent of the total income to be presented separately.

6. Finance Costs

Particulars	(Current Year)	(Previous Year)
	On Financial liabilities measured at fair value through profit or loss	On Financial liabilities measured at fair value through profit or loss
Interest on deposits		
Interest on borrowings		
Interest on debt securities		
Interest on subordinated liabilities		
Other interest expense		
Total		

7. Employee Benefits Expenses

Particulars	(Current Year)	(Previous Year)
Salaries and wages		
Contribution to provident and other funds		
Share Based Payments to employees		
Staff welfare expenses		
Others (to be specified)		
Total		

8. Impairment on financial instruments

Particulars	(Current Year)		(Previous Year)	
	On Financial instruments measured at fair value through OCI	On Financial instruments measured at Amortised Cost	On Financial instruments measured at fair value through OCI	On Financial instruments measured at Amortised Cost
Loans				
Investments				
Others (to be specified)				
Total				

9. Other expenses (to be specified)

Particulars	(Current Year)	(Previous Year)
Rent, taxes and energy costs		
Repairs and maintenance		
Communication Costs		
Printing and stationery		
Advertisement and publicity		
Director's fees, allowances and expenses		
Auditor's fees and expenses		
Legal and Professional charges		
Insurance		
Other expenditure		
Total		

* Any item under the subhead 'Others expenditure' which exceeds one per cent of the total income to be presented separately.

10. Other Comprehensive Income shall be classified into-

(A) Items that will not be reclassified to profit or loss

- i. Changes in revaluation surplus;
- ii. Remeasurements of the defined benefit plans;
- iii. Equity Instruments through Other Comprehensive Income;
- iv. Fair value changes relating to own credit risk of financial liabilities designated at fair value through profit or loss;
- v. Share of Other Comprehensive Income in Associates and Joint Ventures, to the extent not to be classified into profit or loss; and
- vi. Others (specify nature).

(B) Items that will be reclassified to profit or loss;

- i. Exchange differences in translating the financial statements of a foreign operation;
- ii. Debt Instruments through Other Comprehensive Income;
- iii. The effective portion of gains and loss on hedging instruments in a cash flow hedge;
- iv. Share of Other Comprehensive Income in Associates and Joint Ventures, to the extent to be classified into profit or loss; and
- v. Others (specify nature).

11. Additional Information: An NBFC shall disclose by way of notes, additional information regarding aggregate expenditure and income on the following items:

- i. Depreciation, amortisation and impairment
- ii. payments to the auditor as (a) auditor, (b) for taxation matters, (c) for company law matters, (d) for other services, (e) for reimbursement of expenses;
- iii. in case of NBFCs covered under section 135, amount of expenditure incurred on corporate social responsibility activities; and
- iv. details of items of exceptional nature

¹[v. undisclosed income

1. Ins. by Notification No. G.S.R. 207(E), dated 24th March, 2021, (w.e.f. 1-4-2021).

The Company shall give details of any transactions not recorded in the books of accounts that has been surrendered or disclosed as income during the year in the tax assessments under the Income Tax Act, 1961 (such as, search or survey or any other relevant provisions of the Income Tax Act, 1961), unless there is immunity for disclosure under any scheme. Also, state whether the previously unrecorded income and related assets have been properly recorded in the books of account during the year.

vi. Corporate Social Responsibility (CSR)

Where the company (NBFC) covered under section 135 of the Companies Act, the following shall be disclosed with regard to CSR activated:-

- (a) amount required to be spent by the company during the year,
- (b) amount of expenditure incurred,
- (c) shortfall at the end of the year,
- (d) total of previous years shortfall,
- (e) reason for shortfall,
- (f) nature of CSR activities,
- (g) details of related party transactions, e.g., contribution to a trust controlled by the company in relation to CSR expenditure as per relevant Accounting Standard,
- (h) where a provision is made with respect to a liability incurred by entering into a contractual obligation, the movements in the provision during the year shall be shown separately.

vii details of Crypto Currency or Virtual Currency

Where the Company has traded or invested in Crypto currency or virtual Currency during the financial year, the following shall be disclosed:-

- (a) profit or loss on transactions involving Crypto currency or Virtual Currency.
- (b) amount of currency held as at the reporting date.
- (c) deposits or advances from any person for the purpose of trading or investing in Crypto Currency or virtual currency.]

PART III- GENERAL INSTRUCTIONS FOR THE PREPARATION OF CONSOLIDATED FINANCIAL STATEMENTS

(1) Where a Non-Banking Financial Company (NBFC) is required to prepare Consolidated Financial Statements, i.e., consolidated balance sheet, consolidated statement of changes in equity and consolidated statement of profit and loss, the NBFC shall mutatis mutandis follow the requirements of this Schedule as applicable to an NBFC in the preparation of balance sheet, statement of changes in equity and statement of profit and loss. However, where the consolidated financial statements contains elements pertaining to NBFCs and other than NBFCs, mixed basis of presentation may be followed for consolidated financial statements where both kinds of operations are significant. In addition, the consolidated financial statements shall disclose the information as per the requirements specified in the applicable Indian Accounting Standards notified under the Companies (Indian Accounting Standards) Rules 2015, including the following, namely:-

- (i) Profit or loss attributable to ‘non-controlling interest’ and to ‘owners of the parent’ in the statement of profit and loss shall be presented as allocation for the period. Further, ‘total comprehensive income’ for the period attributable to ‘non-controlling interest’ and to ‘owners of the parent’ shall be presented in the statement of profit and loss as allocation for the period. The aforesaid disclosures for ‘total comprehensive income’ shall also be made in the statement of changes in equity. In addition to the disclosure requirements in the Indian Accounting Standards, the aforesaid disclosures shall also be made in respect of ‘other comprehensive income’.
- (ii) ‘Non-controlling interests’ in the Balance Sheet and in the Statement of Changes in Equity, within equity, shall be presented separately from the equity of the ‘owners of the parent’.
- (iii) Investments accounted for using the equity method.

(2) In Consolidated Financial Statements, the following shall be disclosed by way of additional information:

Name of the entity in the Group	Net Assets, i.e., total assets minus total liabilities		Share in profit or loss		Share in other comprehensive income		Share in total comprehensive income	
	As % of consolidated net assets	Amount	As % of consolidated profit or loss	Amount	As % of consolidated other comprehensive income	Amount	As % of total comprehensive income	Amount
Ent Subsidiaries Indian 1. 2. 3. . . Foreign 1. 2. 3. . .								
Non-controlling Interests in all subsidiaries Associates (Investment as per the equity method) Indian 1. 2. 3. . . Foreign 1. 2. 3. . .								
Joint								

Ventures(as per the equity method)							
Indian							
1.							
2.							
3.							
.							
Foreign							
1.							
2.							
3.							
.							
Total							

(3) All subsidiaries, associates and joint ventures (whether Indian or foreign) will be covered under consolidated financial statements.

(4) An entity shall disclose the list of subsidiaries or associates or joint ventures which have not been consolidated in the consolidated financial statements along with the reasons of not consolidating.]

SCHEDULE IV

[See section 149(8)]

CODE FOR INDEPENDENT DIRECTORS

The Code is a guide to professional conduct for independent directors. Adherence to these standards by independent directors and fulfilment of their responsibilities in a professional and faithful manner will promote confidence of the investment community, particularly minority shareholders, regulators and companies in the institution of independent directors.

I. Guidelines of professional conduct:

An independent director shall:

- (1) uphold ethical standards of integrity and probity;
- (2) act objectively and constructively while exercising his duties;
- (3) exercise his responsibilities in a *bona fide* manner in the interest of the company;
- (4) devote sufficient time and attention to his professional obligations for informed and balanced decision making;
- (5) not allow any extraneous considerations that will vitiate his exercise of objective independent judgment in the paramount interest of the company as a whole, while concurring in or dissenting from the collective judgment of the Board in its decision making;
- (6) not abuse his position to the detriment of the company or its shareholders or for the purpose of gaining direct or indirect personal advantage or advantage for any associated person;
- (7) refrain from any action that would lead to loss of his independence;
- (8) where circumstances arise which make an independent director lose his independence, the independent director must immediately inform the Board accordingly;
- (9) assist the company in implementing the best corporate governance practices.

II. Role and functions:

The independent directors shall:

- (1) help in bringing an independent judgment to bear on the Board's deliberations especially on issues of strategy, performance, risk management, resources, key appointments and standards of conduct;
- (2) bring an objective view in the evaluation of the performance of board and management;
- (3) scrutinise the performance of management in meeting agreed goals and objectives and monitor the reporting of performance;
- (4) satisfy themselves on the integrity of financial information and that financial controls and the systems of risk management are robust and defensible;
- (5) safeguard the interests of all stakeholders, particularly the minority shareholders;
- (6) balance the conflicting interest of the stakeholders;
- (7) determine appropriate levels of remuneration of executive directors, key managerial personnel and senior management and have a prime role in appointing and where necessary recommend removal of executive directors, key managerial personnel and senior management;
- (8) moderate and arbitrate in the interest of the company as a whole, in situations of conflict between management and shareholder's interest.

III. Duties :

The independent directors shall—

- (1) undertake appropriate induction and regularly update and refresh their skills, knowledge and familiarity with the company;

- (2) seek appropriate clarification or amplification of information and, where necessary, take and follow appropriate professional advice and opinion of outside experts at the expense of the company;
- (3) strive to attend all meetings of the Board of Directors and of the Board committees of which he is a member;
- (4) participate constructively and actively in the committees of the Board in which they are chairpersons or members;
- (5) strive to attend the general meetings of the company;
- (6) where they have concerns about the running of the company or a proposed action, ensure that these are addressed by the Board and, to the extent that they are not resolved, insist that their concerns are recorded in the minutes of the Board meeting;
- (7) keep themselves well informed about the company and the external environment in which it operates;
- (8) not to unfairly obstruct the functioning of an otherwise proper Board or committee of the Board;
- (9) pay sufficient attention and ensure that adequate deliberations are held before approving related party transactions and assure themselves that the same are in the interest of the company;
- (10) ascertain and ensure that the company has an adequate and functional vigil mechanism and to ensure that the interests of a person who uses such mechanism are not prejudicially affected on account of such use;
- (11) report concerns about unethical behavior, actual or suspected fraud or violation of the company's code of conduct or ethics policy;
- (12) ¹[act within their authority], assist in protecting the legitimate interests of the company, shareholders and its employees;
- (13) not disclose confidential information, including commercial secrets, technologies, advertising and sales promotion plans, unpublished price sensitive information, unless such disclosure is expressly approved by the Board or required by law.

IV. Manner of appointment:

- (1) Appointment process of independent directors shall be independent of the company management; while selecting independent directors the Board shall ensure that there is appropriate balance of skills, experience and knowledge in the Board so as to enable the Board to discharge its functions and duties effectively.
- (2) The appointment of independent director(s) of the company shall be approved at the meeting of the shareholders.
- (3) The explanatory statement attached to the notice of the meeting for approving the appointment of independent director shall include a statement that in the opinion of the Board, the independent director proposed to be appointed fulfils the conditions specified in the Act and the rules made thereunder and that the proposed director is independent of the management.
- (4) The appointment of independent directors shall be formalised through a letter of appointment, which shall set out :
 - (a) the term of appointment;
 - (b) the expectation of the Board from the appointed director; the Board-level committee(s) in which the director is expected to serve and its tasks;
 - (c) the fiduciary duties that come with such an appointment along with accompanying liabilities;
 - (d) provision for Directors and Officers (D and O) insurance, if any;
 - (e) the Code of Business Ethics that the company expects its directors and employees to follow;
 - (f) the list of actions that a director should not do while functioning as such in the company; and

1. Subs. by Notification No. S.O. 2113(E), dated 5th July 2017, for “ acting within his authority” .

- (g)the remuneration, mentioning periodic fees, reimbursement of expenses for participation in the Boards and other meetings and profit related commission, if any.
- (5) The terms and conditions of appointment of independent directors shall be open for inspection at the registered office of the company by any member during normal business hours.
- (6) The terms and conditions of appointment of independent directors shall also be posted on the company's website.

V. Re-appointment:

The re-appointment of independent director shall be on the basis of report of performance evaluation.

VI. Resignation or removal:

- (1) The resignation or removal of an independent director shall be in the same manner as is provided in sections 168 and 169 of the Act.
- (2) An independent director who resigns or is removed from the Board of the company shall be replaced by a new independent director within ¹[three months] from the date of such resignation or removal, as the case may be.
- (3) Where the company fulfils the requirement of independent directors in its Board even without filling the vacancy created by such resignation or removal, as the case may be, the requirement of replacement by a new independent director shall not apply.

VII. Separate meetings:

- (1) The independent directors of the company shall hold at least one meeting ²[in a financial year], without the attendance of non-independent directors and members of management;
- (2) All the independent directors of the company shall strive to be present at such meeting;
- (3) The meeting shall:
 - (a) review the performance of non-independent directors and the Board as a whole;
 - (b) review the performance of the Chairperson of the company, taking into account the views of executive directors and non-executive directors;
 - (c) assess the quality, quantity and timeliness of flow of information between the company management and the Board that is necessary for the Board to effectively and reasonably perform their duties.

VIII. Evaluation mechanism:

- (1) The performance evaluation of independent directors shall be done by the entire Board of Directors, excluding the director being evaluated.
- (2) On the basis of the report of performance evaluation, it shall be determined whether to extend or continue the term of appointment of the independent director.

³[**Note:** The Provisions of sub-paragraph (2) and (7) of paragraph II, paragraph IV, paragraph V, clauses (a) and (b) of sub-paragraph (3) of paragraph VI and paragraph VIII shall not apply in the case of a Government company as defined under clause (45) of section 2 of the Companies Act, 2013 (18 of 2013), if the requirements in respect of matters specified in these paragraph are specified by the concerned Ministries or Departments of the Central Government or as the case may be, the State Governments and such requirements are complied with by the Government companies.]

1. Subs. by Notification No. S.O. 2113(E), dated 5th July 2017, for "a period of not more than one hundred and eight days" (w.e.f. 5-7-2017).

2. Subs. by *ibid.*, for "in a year" (w.e.f. 5-7-2017).

3. Ins. by *ibid.*(w.e.f. 5-7-2017).

SCHEDULE V

(See sections 196 and 197)

PART I

CONDITIONS TO BE FULFILLED FOR THE APPOINTMENT OF A MANAGING OR WHOLE-TIME DIRECTOR OR A MANAGER WITHOUT THE APPROVAL OF THE CENTRAL GOVERNMENT APPOINTMENTS

No person shall be eligible for appointment as a managing or whole-time director or a manager (hereinafter referred to as managerial person) of a company unless he satisfies the following conditions, namely:—

(a) he had not been sentenced to imprisonment for any period, or to a fine exceeding one thousand rupees, for the conviction of an offence under any of the following Acts, namely:—

- (i) the Indian Stamp Act, 1899 (2 of 1899);
- (ii) the Central Excise Act, 1944 (1 of 1944);
- (iii) the Industries (Development and Regulation) Act, 1951 (65 of 1951);
- (iv) the Prevention of Food Adulteration Act, 1954 (37 of 1954);
- (v) the Essential Commodities Act, 1955 (10 of 1955);
- ¹[(vi) the Companies Act, 2013 (18 of 2013) or any previous company law;]
- (vii) the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
- (viii) the Wealth-tax Act, 1957 (27 of 1957);
- (ix) the Income-tax Act, 1961 (43 of 1961);
- (x) the Customs Act, 1962 (52 of 1962);
- (xi) the Competition Act, 2002 (12 of 2003);
- (xii) the Foreign Exchange Management Act, 1999 (42 of 1999);
- (xiii) the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986);
- (xiv) the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- (xv) the Foreign Trade (Development and Regulation) Act, 1922 (22 of 1922);
- (xvi) the Prevention of Money-Laundering Act, 2002 (15 of 2003);
- ²[(xvii) the Insolvency and Bankruptcy Code, 2016 (31 of 2016);
- (xviii) the Goods and Services Tax Act, 2017 (12 of 2017);
- (xix) the Fugitive Economic Offenders Act, 2018 (17 of 2018).]

(b) he had not been detained for any period under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974):

Provided that where the Central Government has given its approval to the appointment of a person convicted or detained under sub-paragraph (a) or sub-paragraph (b), as the case may be, no further approval of the Central Government shall be necessary for the subsequent appointment of that person if he had not been so convicted or detained subsequent to such approval.

(c) he has completed the age of twenty-one years and has not attained the age of seventy years:

1. Subs. by Notification No. G.S.R. 2922(E), dated 12th September, 2016, for sub-paragraph (vi).
2. Ins. by Notification No. S.O. 4822(E), dated 12th September, 2018 (w.e.f. 12-9-2018).

Provided that where he has attained the age of seventy years; and where his appointment is approved by a special resolution passed by the company in general meeting, no further approval of the Central Government shall be necessary for such appointment;

- (d) where he is a managerial person in more than one company, he draws remuneration from one or more companies subject to the ceiling provided in section V of Part II;
- (e) he is resident of India.

Explanation I.—For the purpose of this Schedule, resident in India includes a person who has been staying in India for a continuous period of not less than twelve months immediately preceding the date of his appointment as a managerial person and who has come to stay in India,—

- (i) for taking up employment in India; or
(ii) for carrying on a business or vacation in India.

Explanation II.—This condition shall not apply to the companies in Special Economic Zones as notified by Department of Commerce from time to time:

Provided that a person, being a non-resident in India shall enter India only after obtaining a proper Employment Visa from the concerned Indian mission abroad. For this purpose, such person shall be required to furnish, along with the visa application form, profile of the company, the principal employer and terms and conditions of such person's appointment.

PART II

REMUNERATION

Section I.— Remuneration payable by companies having profits:

Subject to the provisions of section 197, a company having profits in a financial year may pay remuneration to a managerial person or persons ¹[or other director or directors] not exceeding the limits specified in such section.

²[Section II.— Remuneration payable by companies having no profit or inadequate profit ^{3*:}]**

Where in any financial year during the currency of tenure of a managerial person ¹[or other director], a company has no profits or its profits are inadequate, it may, ^{3***:}, pay remuneration to the managerial person ¹[or other director] not exceeding the limits under (A) and (B) given below:—

⁴[(A):

SI. No.	(1) Where the effective capital (in rupees) is	(2) Limit of yearly remuneration payable shall not exceed (in Rupees) in case of a managerial person	(3) Limit of yearly remuneration payable shall not exceed (in rupees) in case of other director
(i)	Negative or less than 5 crores.	60 lakhs	12 Lakhs
(ii)	5 crores and above but less than 100 crores.	84 lakhs	17 Lakhs
(iii)	100 crores and above but less than 250 crores.	120 lakhs	24 Lakhs
(iv)	250 crores and above.	120 lakhs plus 0.01% of the effective capital in excess of Rs. 250 crores:	24 Lakhs plus 0.01% of the effective capital in excess of Rs. 250 crores:]

⁵[Provided that the remuneration in excess of above limits may be paid] if the resolution passed by the shareholders is a special resolution.

-
1. Ins. by Notification No. S.O. 1256(E), dated 18th March, 2021 (w.e.f. 18-3-2021).
 2. Subs. by Notification No. S.O. 2922(E), dated 12th September 2016, for Section II.
 3. The words “without Central Government approval” omitted by Notification No. S.O. 4822(E), dated 12th September, 2018 (w.e.f. 12-9-2018).
 4. Subs. by Notification No. S.O. 1256(E), for Table (A) dated 18th March, 2021 (w.e.f. 18-3-2021).
 5. Subs. by Notification No. S.O. 4822(E), for “Provided that the above limits shall be doubled” (w.e.f. 12-9-2018).

Explanation.— It is hereby clarified that for a period less than one year, the limits shall be pro-rated.

(B) In case of a managerial person who is functioning in a professional capacity, ¹[remuneration as per item (A) may be paid], if such managerial person is not having any interest in the capital of the company or its holding company or any of its subsidiaries directly or indirectly or through any other statutory structures and not having any direct or indirect interest or related to the directors or promoters of the company or its holding company or any of its subsidiaries at any time during the last two years before or on or after the date of appointment and possesses graduate level qualification with expertise and specialised knowledge in the field in which the company operates:

Provided that any employee of a company holding shares of the company not exceeding 0.5% of its paid up share capital under any scheme formulated for allotment of shares to such employees including Employees Stock Option Plan or by way of qualification shall be deemed to be a person not having any interest in the capital of the company:

Provided further that the limits specified under items (A) and (B) of this section shall apply, if-

- (i) payment of remuneration is approved by a resolution passed by the Board and, in the case of a company covered under sub-section (I) of section 178 also by the Nomination and Remuneration Committee;
- (ii) ²[the company has not committed any default in payment of dues to any bank or public financial institution or non-convertible debenture holders or any other secured creditor, and in case of default, the prior approval of the bank or public financial institution concerned or the non-convertible debenture holders or other secured creditor, as the case may be, shall be obtained by the company before obtaining the approval in the general meeting;]
- (iii) an ordinary resolution or a special resolution, as the case may be, has been passed for payment of remuneration as per ^{3***} item (A) or a special resolution has been passed for payment of remuneration as per item (B), at the general meeting of the company for a period not exceeding three years.
- (iv) a statement along with a notice calling the general meeting referred to in clause (iii) is given to the shareholders containing the following information, namely:-

I. General information:

- (1) Nature of industry
- (2) Date or expected date of commencement of commercial production
- (3) In case of new companies, expected date of commencement of activities as per project approved by financial institutions appearing in the prospectus
- (4) Financial performance based on given indicators
- (5) Foreign investments or collaborations, if any.

II. Information about the appointee:

- (1) Background details
- (2) Past remuneration
- (3) Recognition or awards
- (4) Job profile and his suitability
- (5) Remuneration proposed
- (6) Comparative remuneration profile with respect to industry, size of the company, profile of the position and person (in case of expatriates the relevant details would be with respect to the country of his origin)
- (7) Pecuniary relationship directly or indirectly with the company, or relationship with the managerial personnel, if any.

1. Subs. by Notification No. S.O. 4822(E), dated 12th September, 2018, for “no approval of Central Government is required” (w.e.f. 12-9-2018).
2. Subs. by *ibid.*, for clause (ii) (w.e.f. 12-9-2018).
3. The words “the limits laid down in” omitted by *ibid.*, (w.e.f 12-9-2018).

III. Other information:

- (1) Reasons of loss or inadequate profits
- (2) Steps taken or proposed to be taken for improvement
- (3) Expected increase in productivity and profits in measurable terms

IV. Disclosures:

The following disclosures shall be mentioned in the Board of Director's report under the heading "Corporate Governance", if any, attached to the financial statement:

- (i) all elements of remuneration package such as salary, benefits, bonuses, stock options, pension, etc., of all the directors;
- (ii) details of fixed component and performance linked incentives along with the performance criteria;
- (iii) service contracts, notice period, severance fees; and
- (iv) stock option details, if any, and whether the same has been issued at a discount as well as the period over which accrued and over which exercisable.

Explanation: For the purposes of Section II of this part, "Statutory Structure" means any entity which is entitled to hold shares in any company formed under any statute.]

Section III.— Remuneration payable by companies having no profit or inadequate ^{1*}profit in certain special circumstances:**

In the following circumstances a company may, ^{1***}, pay remuneration to a managerial person ²[or other director] in excess of the amounts provided in Section II above:—

(a) where the remuneration in excess of the limits specified in Section I or Section II is paid by any other company and that other company is either a foreign company or has got the approval of its shareholders in general meeting to make such payment, and treats this amount as managerial remuneration for the purpose of section 197 and the total managerial remuneration payable by such other company to its managerial persons including such amount or amounts is within permissible limits under section 197.

³[(b) where the company—

(i) is a newly incorporated company, for a period of seven years from the date of its incorporation, or

(ii) is a sick company, for whom a scheme of revival or rehabilitation has been ordered by the Board for Industrial and Financial Reconstruction for a period of five years from the date of sanction of scheme of revival, or

(iii) is a company in relation to which a resolution plan has been approved by the National Company Law Tribunal under the Insolvency and Bankruptcy Code, 2016 (31 of 2016) for a period of five years from the date of such approval,

it may pay ⁴[any remuneration to its managerial persons ²[or other directors]].]

(c) where remuneration of a managerial person ²[or other director] exceeds the limits in Section II but the remuneration has been fixed by the Board for Industrial and Financial Reconstruction or the National Company Law Tribunal:

Provided that the limits under this Section shall be applicable subject to meeting all the conditions specified under Section II and the following additional conditions:—

1. The words "without Central Government approval" omitted by Notification No. S.O. 4822(E), dated 12th September, 2018 (w.e.f. 12-9-2018).

2. Ins. by Notification No. S.O. 1256(E), dated 18th March, 2021 (w.e.f. 18-3-2021).

3. Subs. by Act 31 of 2016, s. 255 and the Eleventh Schedule, for clause (b) (w.e.f. 15-11-2016).

4. Subs. by Notification No. S.O. 4822(E), dated 12th September, 2018, for "remuneration up to two times the amount permissible under Section II" (w.e.f. 12-9-2018).

- (i) except as provided in para (a) of this Section, the managerial person is not receiving remuneration from any other company;
- (ii) the auditor or Company Secretary of the company or where the company has not appointed a Secretary, a Secretary in whole-time practice, certifies that all secured creditors and term lenders have stated in writing that they have no objection for the appointment of the managerial person¹[or other director] as well as the quantum of remuneration and such certificate is filed along with the return as prescribed under sub-section (4) of section 196.
- (iii) the auditor or Company Secretary or where the company has not appointed a secretary, a secretary in whole-time practice certifies that there is no default on payments to any creditors, and all dues to deposit holders are being settled on time.

2*

*

*

*

*

¹[Explanation.—For the purposes of Section I, Section II and Section III, the term “or other director” shall mean a non-executive director or an independent director.]

Section IV.— Perquisites not included in managerial remuneration:

1. A managerial person shall be eligible for the following perquisites which shall not be included in the computation of the ceiling on remuneration specified in Section II and Section III:—
 - (a) contribution to provident fund, superannuation fund or annuity fund to the extent these either singly or put together are not taxable under the Income-tax Act, 1961(43 of 1961);
 - (b) gratuity payable at a rate not exceeding half a month’s salary for each completed year of service; and
 - (c) encashment of leave at the end of the tenure.
2. In addition to the perquisites specified in paragraph 1 of this section, an expatriate managerial person (including a non-resident Indian) shall be eligible to the following perquisites which shall not be included in the computation of the ceiling on remuneration specified in Section II or Section III—
 - (a) *Children’s education allowance:* In case of children studying in or outside India, an allowance limited to a maximum of Rs. 12,000 per month per child or actual expenses incurred, whichever is less. Such allowance is admissible up to a maximum of two children.
 - (b) *Holiday passage for children studying outside India or family staying abroad:* Return holiday passage once in a year by economy class or once in two years by first class to children and to the members of the family from the place of their study or stay abroad to India if they are not residing in India, with the managerial person.
 - (c) *Leave travel concession:* Return passage for self and family in accordance with the rules specified by the company where it is proposed that the leave be spent in home country instead of anywhere in India.

Explanation I.— For the purposes of Section II of this Part, “effective capital” means the aggregate of the paid-up share capital (excluding share application money or advances against shares); amount, if any, for the time being standing to the credit of share premium account; reserves and surplus (excluding revaluation reserve); long-term loans and deposits repayable after one year (excluding working capital loans, overdrafts, interest due on loans unless funded, bank guarantee, etc., and other short-term arrangements) as reduced by the aggregate of any investments (except in case of investment by an investment company whose principal business is acquisition of shares, stock, debentures or other securities), accumulated losses and preliminary expenses not written off.

Explanation II.— (a) Where the appointment of the managerial person is made in the year in which company has been incorporated, the effective capital shall be calculated as on the date of such appointment;

(b) In any other case the effective capital shall be calculated as on the last date of the financial year preceding the financial year in which the appointment of the managerial person is made.

1. Ins. by Notification No. S.O. 1256(E), dated 18th March, 2021 (w.e.f. 18-3-2021).

2. Clause (d) omitted by Notification No. S.O. 4822(E), dated 12th September, 2018 (w.e.f. 12-9-2018).

Explanation III.— For the purposes of this Schedule, “family” means the spouse, dependent children and dependent parents of the managerial person.

Explanation IV.— The Nomination and Remuneration Committee while approving the remuneration under Section II or Section III, shall—

(a) take into account, financial position of the company, trend in the industry, appointee’s qualification, experience, past performance, past remuneration, etc.;

(b) be in a position to bring about objectivity in determining the remuneration package while striking a balance between the interest of the company and the shareholders.

Explanation V.— For the purposes of this Schedule, “negative effective capital” means the effective capital which is calculated in accordance with the provisions contained in *Explanation I* of this Part is less than zero.

Explanation VI.— For the purposes of this Schedule:—

1*

*

*

*

*

(B) “Remuneration” means remuneration as defined in clause (78) of section 2 and includes reimbursement of any direct taxes to the managerial person.

Section V.—Remuneration payable to a managerial person in two companies:

Subject to the provisions of sections I to IV, a managerial person shall draw remuneration from one or both companies, provided that the total remuneration drawn from the companies does not exceed the higher maximum limit admissible from any one of the companies of which he is a managerial person.

PART III

Provisions applicable to Parts I and II of this Schedule

1. The appointment and remuneration referred to in Part I and Part II of this Schedule shall be subject to approval by a resolution of the shareholders in general meeting.

2. The auditor or the Secretary of the company or where the company is not required to appointed a Secretary, a Secretary in whole-time practice shall certify that the requirement of this Schedule have been complied with and such certificate shall be incorporated in the return filed with the Registrar under sub-section (4) of section 196.

PART IV

The Central Government may, by notification, exempt any class or classes of companies from any of the requirements contained in this Schedule.

1. Clause (A) omitted by Notification No S.O. 4822(E), dated 12th September, 2018 (w.e.f. 12-9-2018).

SCHEDULE VI

(See sections 55 and 186)

The term “infrastructural projects” or “infrastructural facilities” includes the following projects or activities:—

- (1) Transportation (including inter modal transportation), includes the following:—
 - (a) roads, national highways, state highways, major district roads, other district roads and village roads, including toll roads, bridges, highways, road transport providers and other road-related services;
 - (b) rail system, rail transport providers, metro rail roads and other railway related services;
 - (c) ports (including minor ports and harbours), inland waterways, coastal shipping including shipping lines and other port related services;
 - (d) aviation, including airports, heliports, airlines and other airport related services;
 - (e) logistics services.
- (2) Agriculture, including the following, namely:—
 - (a) infrastructure related to storage facilities;
 - (b) construction relating to projects involving agro-processing and supply of inputs to agriculture;
 - (c) construction for preservation and storage of processed agro-products, perishable goods such as fruits, vegetables and flowers including testing facilities for quality.
- (3) Water management, including the following, namely:—
 - (a) water supply or distribution;
 - (b) irrigation;
 - (c) water treatment.
- (4) Telecommunication, including the following, namely:—
 - (a) basic or cellular, including radio paging;
 - (b) domestic satellite service (*i.e.*, satellite owned and operated by an Indian company for providing telecommunication service);
 - (c) network of trunking, broadband network and internet services.
- (5) Industrial, commercial and social development and maintenance, including the following, namely:—
 - (a) real estate development, including an industrial park or special economic zone;
 - (b) tourism, including hotels, convention centres and entertainment centres;
 - (c) public markets and buildings, trade fair, convention, exhibition, cultural centres, sports and recreation infrastructure, public gardens and parks;
 - (d) construction of educational institutions and hospitals;
 - (e) other urban development, including solid waste management systems, sanitation and sewerage systems.

(6) Power, including the following:—

(a) generation of power through thermal, hydro, nuclear, fossil fuel, wind and other renewable sources;

(b) transmission, distribution or trading of power by laying a network of new transmission or distribution lines.

(7) Petroleum and natural gas, including the following:—

(a) exploration and production;

(b) import terminals;

(c) liquefaction and re-gasification;

(d) storage terminals;

(e) transmission networks and distribution networks including city gas infrastructure.

(8) Housing, including the following:—

(a) urban and rural housing including public / mass housing, slum rehabilitation, etc;

(b) other allied activities such as drainage, lighting, laying of roads, sanitation and facilities.

(9) Other miscellaneous facilities/services, including the following:—

(a) mining and related activities;

(b) technology related infrastructure;

(c) manufacturing of components and materials or any other utilities or facilities required by the infrastructure sector like energy saving devices and metering devices;

(d) environment related infrastructure;

(e) disaster management services;

(f) preservation of monuments and icons;

(g) emergency services (including medical, police, fire and rescue).

(10) such other facility service as may be prescribed.

SCHEDULE VII

(See section 135)

Activities which may be included by companies in their Corporate Social Responsibility Policies
Activities relating to:—

¹[(i) eradicating hunger, poverty and malnutrition, ²[promoting health care including preventive health] and sanitation ³[Including contribution to the Swatch Bharat Kosh set-up by the Central Government for the promotion of sanitation] and making available safe drinking water;

(ii) promoting education, including special education and employment enhancing vocation skills especially among children, women, elderly, and the differently abled and livelihood enhancement projects;

(iii) promoting gender equality, empowering women, setting up homes and hostels for women and orphans; setting up old age homes, day care centres and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups;

(iv) ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources and maintaining quality of soil, air and water ⁴[including contribution to the Clean Ganga Fund set-up by the Central Government for rejuvenation of river Ganga];

(v) protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art; setting up public libraries; promotion and development of traditional arts and handicrafts;

(vi) measures for the benefit of armed forces veterans, war widows and their dependents;

(vii) training to promote rural sports, nationally recognised sports, paralympic sports and Olympic sports;

(viii) contribution to the Prime Minister's National Relief Fund ⁵[or Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES Fund)] or any other fund set up by the Central Government for socio-economic development and relief and welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women;

⁶[(ix)(a) Contribution to incubators or research and development projects in the field of science, technology, engineering and medicine, funded by the Central Government or State Government or Public Sector Undertaking or any agency of the Central Government or State Government; and

(b) Contributions to public funded Universities; Indian Institute of Technology (IITs); National Laboratories and autonomous bodies established under Department of Atomic Energy (DAE); Department of Biotechnology (DBT); Department of Science and Technology (DST); Department of Pharmaceuticals; Ministry of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH); Ministry of Electronics and Information Technology and other bodies, namely Defense Research and Development Organisation (DRDO); Indian Council of Agricultural Research (ICAR); Indian Council of Medical Research (ICMR) and Council of Scientific and Industrial Research (CSIR), engaged in conducting research in science, technology, engineering and medicine aimed at promoting Sustainable Development Goals (SDGs)]

(x) rural development projects.]

⁷[(xi) slum area development.

-
1. Subs. by Notification No. G.S.R. 130(E), dated 27th February 2014, for item (i) to (x) (w.e.f. 1-4-2014).
 2. Subs. by Notification No. G.S.R. 261(E), dated 31st March 2014 for “promoting preventive health care” (w.e.f. 31-3-2014).
 3. Ins. by Notification No. G.S.R. 741(E), dated by 24th October, 2014 (w.e.f. 24-10-2014).
 4. Ins. by *ibid.* (w.e.f. 24-10-2014).
 5. Ins. by Notification No. G.S.R. 313(E), dated 26th May, 2020 (w.e.f. 28-03-2020).
 6. Subs. by Notification No. G.S.R. 525(E), dated 24th August, 2020 (w.e.f. 24-08-2020).
 7. Ins. by Notification No. G.S.R. 568(E), dated by 6th August 2016.

Explanation.— For the purposes of this item, the term ‘slum area’ shall mean any area declared as such by the Central Government or any State Government or any other competent authority under any law for the time being in force.]

¹[(xii) disaster management, including relief, rehabilitation and reconstruction activities.]

1. Ins. by Notification No. G.S.R. 390(E), dated 30th May, 2019 (w.e.f. 30-5-2019).

THE NEGOTIABLE INSTRUMENTS ACT, 1881

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title.

Local extent,

Saving of usages relating to hundis, etc.,

Commencement.

2. [*Repealed.*].

3. Interpretation-clause.

Banker.

CHAPTER II

OF NOTES, BILLS AND CHEQUES

4. "Promissory note".

5. "Bill of exchange".

6. "Cheque".

7. "Drawer", "Drawee".

"Drawee in case of need".

"Acceptor".

"Acceptor for honour".

"Payee".

8. "Holder".

9. "Holder in due course".

10. "Payment in due course".

11. Inland instrument.

12. Foreign instrument.

13. "Negotiable instrument".

14. Negotiation.

15. Indorsement.

SECTIONS

16. Indorsement “in blank” and “in full”.
“Indorsee”.
 17. Ambiguous instruments.
 18. Where amount is stated differently in figures and words.
 19. Instruments payable on demand.
 20. Inchoate stamped instruments.
 21. “At sight” —“On presentment”.
“After sight”.
 22. “Maturity”.
- Days of grace.
23. Calculating maturity of bill or note payable so many months after date or sight.
 24. Calculating maturity of bill or note payable so many days after date or sight.
 25. When day of maturity is a holiday.

CHAPTER III

PARTIES TO NOTES, BILLS AND CHEQUES.

26. Capacity to make, etc., promissory notes, etc.
Minor.
27. Agency.
28. Liability of agent signing.
29. Liability of legal representative signing.
30. Liability of drawer.
31. Liability of drawee of cheque.
32. Liability of maker of note and acceptor of bill.
33. Only drawee can be acceptor except in need or for honour.
34. Acceptance by several drawees not partners.
35. Liability of indorser.
36. Liability of prior parties to holder in due course.
37. Maker, drawer and acceptor principals.
38. Prior party a principal in respect of each subsequent party.
39. Surety ship.
40. Discharge of indorser’s liability.

SECTIONS

41. Acceptor bound, although indorsement forged.
42. Acceptance of bill drawn in fictitious name.
43. Negotiable instrument made, etc., without consideration.
44. Partial absence or failure of money-consideration.
45. Partial failure of consideration not consisting of money.
- 45A. Holder's right to duplicate of lost bill.

CHAPTER IV OF NEGOTIATION

46. Delivery.
47. Negotiation by delivery.
48. Negotiation by indorsement.
49. Conversion of indorsement in blank into indorsement in full.
50. Effect of indorsement.
51. Who may negotiate.
52. Indorser who excludes his own liability or makes it conditional.
53. Holder deriving title from holder in due course.
54. Instrument indorsed in blank.
55. Conversion of indorsement in blank into indorsement in full.
56. Indorsement for part of sum due.
57. Legal representative cannot by delivery only negotiate instrument indorsed by deceased.
58. Instrument obtained by unlawful means or for unlawful consideration.
59. Instrument acquired after dishonour or when overdue.
Accommodation note or bill.
60. Instrument negotiable till payment or satisfaction.

CHAPTER V OF PRESENTMENT

61. Presentment for acceptance.
62. Presentment of promissory note for sight.
63. Drawee's time for deliberation.
64. Presentment for payment.
65. Hours for presentment.
66. Presentment for payment of instrument payable after date or sight.
67. Presentment for payment of promissory note payable by instalments.

SECTIONS

68. Presentment for payment of instrument payable at specified place and not elsewhere.
69. Instrument payable at specified place.
70. Presentment where no exclusive place specified.
71. Presentment when maker, etc., has no known place of business or residence.
72. Presentment of cheque to charge drawer.
73. Presentment of cheque to charge any other person.
74. Presentment of instrument payable on demand.
75. Presentment by or to agent, representative of deceased, or assignee of insolvent.
- 75A. Excuse for delay in presentment for acceptance or payment.
76. When presentment unnecessary.
77. Liability of banker for negligently dealing with bill presented for payment.

CHAPTER VI

OF PAYMENT AND INTEREST

78. To whom payment should be made.
79. Interest when rate specified.
80. Interest when no rate specified.
81. Delivery of instrument on payment or indemnity in case of loss.

CHAPTER VII

OF DISCHARGE FROM LIABILITY ON NOTES, BILLS AND CHEQUES

82. Discharge from liability.
 - (a) by cancellation;
 - (b) by release;
 - (c) by payment.
83. Discharge by allowing drawee more than forty-eight hours to accept.
84. When cheque not duly presented and drawer damaged thereby.
85. Cheque payable to order.
- 85A. Drafts drawn by one branch of a bank on another payable to order.
86. Parties not consenting discharged by qualified or limited acceptance.
87. Effect of material alteration.

Alteration by indorsee.
88. Acceptor or indorser bound notwithstanding previous alteration.
89. Payment of instrument on which alteration is not apparent.
90. Extinguishment of rights of action on bill in acceptors' hands.

CHAPTER VIII
OF NOTICE OF DISHONOUR

SECTIONS

91. Dishonour by non-acceptance.
92. Dishonour by non-payment.
93. By and to whom notice should be given.
94. Mode in which notice may be given.
95. Party receiving must transmit notice of dishonour.
96. Agent for presentment.
97. When party to whom notice given is dead.
98. When notice of dishonour is unnecessary.

CHAPTER IX
OF NOTING AND PROTEST

99. Noting.
100. Protest.
 Protest for better security.
101. Contents of protest.
102. Notice of protest.
103. Protest for non-payment after dishonour by non-acceptance.
104. Protest of foreign bills.
- 104A. When noting equivalent to protest.

CHAPTER X
OF REASONABLE TIME

105. Reasonable time.
106. Reasonable time of giving notice of dishonour.
107. Reasonable time for transmitting such notice.

CHAPTER XI

OF ACCEPTANCE AND PAYMENT FOR HONOUR AND REFERENCE IN CASE OF NEED

108. Acceptance for honour.
109. How acceptance for honour must be made.
110. Acceptance not specifying for whose honour it is made.
111. Liability of acceptor for honour.
112. When acceptor for honour may be charged.
113. Payment for honour.
114. Right of payer for honour.
115. Drawee in case of need.

SECTIONS

116. Acceptance and payment without protest.

CHAPTER XII
OF COMPENSATION

117. Rules as to compensation.

CHAPTER XIII
SPECIAL RULES OF EVIDENCE

118. Presumptions as to negotiable instruments.

- (a) of consideration;
- (b) as to date;
- (c) as to time of acceptance;
- (d) as to time of transfer;
- (e) as to order of indorsements;
- (f) as to stamp;
- (g) that holder is a holder in due course;

119. Presumption on proof of protest.

120. Estoppel against denying original validity of instrument.

121. Estoppel against denying capacity of payee to indorse.

122. Estoppel against denying signature or capacity of prior party.

CHAPTER XIV
OF CROSSED CHEQUES

123. Cheque crossed generally.

124. Cheque crossed specially.

125. Crossing after issue.

126. Payment of cheque crossed generally.

Payment of cheque crossed specially.

127. Payment of cheque crossed specially more than once.

128. Payment in due course of crossed cheque.

129. Payment of crossed cheque out of due course.

130. Cheque bearing “not negotiable”.

131. Non-liability of banker receiving payment of cheque.

131A. Application of Chapter to drafts.

CHAPTER XV
OF BILLS IN SETS

SECTIONS

- 132. Set of bills.
- 133. Holder of first acquired part entitled to.

CHAPTER XVI
OF INTERNATIONAL LAW

- 134. Law governing liability of maker, acceptor or indorser of foreign instrument.
- 135. Law of place of payment governs dishonour.
- 136. Instrument made, etc., out of India, but in accordance with the law of India.
- 137. Presumption as to foreign law.

CHAPTER XVII

OF PENALTIES IN CASE OF DISHONOUR OF CERTAIN CHEQUES FOR INSUFFICIENCY OF FUNDS IN THE ACCOUNTS

- 138. Dishonour of cheque for insufficiency, etc., of funds in the account.
- 139. Presumption in favour of holder.
- 140. Defence which may not be allowed in any prosecution under section 138.
- 141. Offences by companies.
- 142. Cognizance of offences.
- 142A. Validation for transfer of pending cases.
- 143. Power of Court to try cases summarily.
- 143A. Power to direct interim compensation.
- 144. Mode of service of summons.
- 145. Evidence on affidavit.
- 146. Bank's *slip prima facie* evidence of certain facts.
- 147. Offences to be compoundable.
- 148. Power of Appellate Court to order payment pending appeal against conviction.

SCHEDULE.—[*Enactments repealed*].

THE NEGOTIABLE INSTRUMENTS ACT, 1881

ACT NO. 26 OF 1881¹

[9th December, 1881.]

An Act to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques.

Preamble.—Whereas it is expedient to define and amend the law relating to promissory notes, bills of exchange and cheques; It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

1. Short title.—This Act may be called the Negotiable Instruments Act, 1881.

Local extent. Saving of usages relating to hundis, etc.—It extends to the whole of India ^{2***} but nothing herein contained affects the ³Indian Paper Currency Act, 1871 (3 of 1871), section 21, or affects any local usage relating to any instrument in an oriental language:

Provided that such usages may be excluded by any words in the body of the instrument which indicate an intention that the legal relations of the parties thereto shall be governed by this Act;

Commencement.—and it shall come into force on the first day of March, 1882.

2. [Repeal of enactments.] Rep. by the Repealing and Amending Act, 1891(12 of 1891), s. 2 and the Schedule I.

3. Interpretation-clause.—In this Act—

^{4*}

*

*

*

*

“Banker”.—⁵[“banker” includes any person acting as a banker and any post office savings bank;]

^{6*}

*

*

*

*

CHAPTER II

OF NOTES, BILLS AND CHEQUES

4. “Promissory note.”—A “Promissory note” is an instrument in writing (not being a bank-note or a currency-note) containing an unconditional undertaking, signed by the maker, to pay a certain sum of money only to, or to the order of, a certain person, or to the bearer of the instrument.

Illustrations

A Signs instruments in the following terms:

- (a) “I promise to pay B or order Rs. 500.”
- (b) “I acknowledge myself to be indebted to B in Rs. 1,000, to be paid on demand, for value received.”
- (c) “Mr. B, I O U Rs. 1,000.”
- (d) “I promise to Pay B Rs. 500 and all other sums which shall be due to him.”
- (e) “I promise to Pay B Rs. 500, first deducting thereout any money which he may owe me.”
- (f) “I promise to Pay B Rs. 500 seven days after my marriage with C.”
- (g) “I, promise to Pay B Rs. 500 on D's death, provided D leaves me enough to pay that sum.”

-
- 1. The Act has been extended to Goa, Daman and Diu with modifications, by Reg. 12 of 1962, s. 3 and Sch., extended to and brought into force in Dadra and Nagar Haveli by Reg. 6 of 1963, s. 2 and Sch. I (w.e.f. 1-7-1965), to the Union territory of Lakshadweep by Reg. 8 of 1965, s. 3 and the Sch. (w.e.f. 1-10-1967) [and to the State of Arunachal Pradesh by Act 44 of 1993, s. 2 and the Sch. (w.e.f. 1-7-1994)].
 - 2. The words “except the State of Jammu and Kashmir”, which were subs. by Act 3 of 1951, for “except Part B States”, omitted by Act 62 of 1956, s. 2 and the Sch.
 - 3. Rep. by the Indian Paper Currency Act, 1923 (10 of 1923). See now the Reserve Bank of India Act, 1934 (2 of 1934), s. 31.
 - 4. Definition of the word “India”, which was subs. by Act 3 of 1951, for the definition of the word “State”, omitted by Act 62 of 1956, s. 2 and the Sch.
 - 5. Subs. by Act 37 of 1955, s. 2, for the definition of the word “banker”.
 - 6. Omitted by Act 53 of 1952, s. 16 (w.e.f. 14-2-1956).

(h) "I promise to Pay B Rs. 500 and to deliver to him my black horse on 1st January next."

The instruments respectively marked (a) and (b) are promissory notes. The instruments respectively marked (c), (d), (e), (f), (g) and (h) are not promissory notes.

5. "Bill of exchange".—A "bill of exchange" is an instrument in writing containing an unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to, or to the order of, a certain person or to the bearer of the instrument.

A promise or order to pay is not "conditional", within the meaning of this section and section 4, by reason of the time for payment of the amount or any instalment thereof being expressed to be on the lapse of a certain period after the occurrence of a specified event which, according to the ordinary expectation of mankind, is certain to happen, although the time of its happening may be uncertain.

The sum payable may be "certain", within the meaning of this section and section 4, although it includes future interest or is payable at an indicated rate of exchange, or is according to the course of exchange, and although the instrument provides that, on default of payment of an instalment, the balance unpaid shall become due.

The person to whom it is clear that the direction is given or that payment is to be made may be a "certain person", within the meaning of this section and section 4, although he is mis-named or designated by description only.

¹[**6. "Cheque".**—A "cheque" is a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand and it includes the electronic image of a truncated cheque and a cheque in the electronic form.

Explanation I.—For the purposes of this section, the expressions—

²[(a) "a cheque in the electronic form" means a cheque drawn in electronic form by using any computer resource and signed in a secure system with digital signature (with or without biometrics signature) and asymmetric crypto system or with electronic signature, as the case may be;]

(b) "a truncated cheque" means a cheque which is truncated during the course of a clearing cycle, either by the clearing house or by the bank whether paying or receiving payment, immediately on generation of an electronic image for transmission, substituting the further physical movement of the cheque in writing.

Explanation II.—For the purposes of this section, the expression "clearing house" means the clearing house managed by the Reserve Bank of India or a clearing house recognised as such by the Reserve Bank of India.]

³[*Explanation III.*—For the purposes of this section, the expressions "asymmetric crypto system", "computer resource", "digital signature", "electronic form" and "electronic signature" shall have the same meanings respectively assigned to them in the Information Technology Act, 2000(21 of 2000).]

7. "Drawer" "Drawee".—The maker of a bill of exchange or cheque is called the "drawer"; the person thereby directed to pay is called the "drawee".

"Drawee in case of need".—When in the Bill or in any indorsement thereon the name of any person is given in addition to the drawee to be resorted to in case of need such person is called a "drawee in case of need."

"Acceptor".—After the drawee of a bill has signed his assent upon the bill, or, if there are more parts thereof than one, upon one of such parts, and delivered the same, or given notice of such signing to the holder or to some person on his behalf, he is called the "acceptor".

"Acceptor for honour".—⁴[When a bill of exchange has been noted or protested for non-acceptance acceptance or for better security,] and any person accepts it *supra protest* for honour of the drawer or of any one of the indorsers, such person is called an "acceptor for honour".

1. Subs. by Act 55 of 2002, s. 2, for section 6 (w.e.f. 6-2-2003).

2. Subs. by Act 26 of 2015, s.2, for clause (a) (w.e.f. 15-6-2015)

3. The Explanation III, ins. by s. 2, *ibid*, (w.e.f. 15-6-2015).

4. Subs. by Act 2 of 1885, s. 2, for "When acceptance is refused and the bill is protested for non-acceptance."

“Payee”.—The person named in the instrument, to whom or to whose order the money is by the instrument directed to be paid, is called the “Payee”.

8. “Holder”.—The “holder” of a promissory note, bill of exchange or cheque means any person entitled in his own name to the possession thereof and to receive or recover the amount due thereon from the parties thereto.

Where the note, bill or cheque is lost or destroyed, its holder is the person so entitled at the time of such loss or destruction.

9. “Holder in due course”.—“Holder in due course” means any person who for consideration became the possessor of a promissory note, bill of exchange or cheque if payable to bearer,

or the payee or indorsee thereof, if ¹[payable to order,]

before the amount mentioned in it became payable, and without having sufficient cause to believe that any defect existed in the title of the person from whom he derived his title.

10. “Payment in due course”.—“Payment in due course” means payment in accordance with the apparent tenor of the instrument in good faith and without negligence to any person in possession thereof under circumstances which do not afford a reasonable ground for believing that he is not entitled to receive payment of the amount therein mentioned.

11. Inland instrument.—A promissory note, bill of exchange or cheque drawn or made in ²[India] and made payable in, or drawn upon any person resident in, ²[India] shall be deemed to be an inland instrument.

12. Foreign instrument.—Any such instrument not so drawn, made or made payable shall be deemed to be a foreign instrument.

13. “Negotiable instrument”.—³[(1) A “negotiable instrument” means a promissory note, bill of exchange or cheque payable either to order or to bearer.

Explanation (i)—A promissory note, bill of exchange or cheque is payable to order which is expressed to be so payable or which is expressed to be payable to a particular person, and does not contain words prohibiting transfer or indicating an intention that it shall not be transferable.

Explanation (ii)—A promissory note, bill of exchange or cheque is payable to bearer which is expressed to be so payable or on which the only or last indorsement is an indorsement in blank.

Explanation (iii)—Where a promissory note, bill of exchange or cheque, either originally or by indorsement, is expressed to be payable to the order of a specified person, and not to him or his order, it is nevertheless payable to him or his order at his option.]

⁴[(2) A negotiable instrument may be made payable to two or more payees jointly, or it may be made payable in the alternative to one of two, or one or some of several payees.]

14. Negotiation.—When a promissory note, bill of exchange or cheque is transferred to any person, so as to constitute that person the holder thereof, the instrument is said to be negotiated.

15. Indorsement.—When the maker or holder of a negotiable instrument signs the same, otherwise than as such maker, for the purpose of negotiation, on the back or face thereof or on a slip of paper annexed thereto, or so signs for the same purpose a stamped paper intended to be completed as a negotiable instrument, he is said to indorse the same, and is called the “indorser”.

16. Indorsement “in blank” and “in full”.—⁵[(1)] If the indorser signs his name only, the indorsement is said to be “in blank,” and if he adds a direction to pay the amount mentioned in the instrument to, or to the order of, a specified person, the indorsement is said to be “in full”, and the person so specified

1. Subs. by Act 8 of 1919, s. 2, for “payable to, or to the order of, a payee.”.

2. Subs. by Act 36 of 1957, s. 3 and the Second Schedule “a State”.

3. Subs. by Act 8 of 1919, s. 3, for the sub-section (1).

4. Ins. by Act 5 of 1914, s. 2.

5. S. 16 renumbered as sub-section (1) by s. 3, *ibid.*

“Indorsee”.—is called the “indorsee” of the instrument.

¹[(2) The provisions of this Act relating to a payee shall apply with the necessary modifications to an indorsee.]

17. Ambiguous instruments.—Where an instrument may be construed either as a promissory note or bill of exchange, the holder may at his election treat it as either, and the instrument shall be thenceforward treated accordingly.

18. Where amount is stated differently in figures and words.—If the amount undertaken or ordered to be paid is stated differently in figures and in words, the amount stated in words shall be the amount undertaken or ordered to be paid.

19. Instruments payable on demand.—A promissory note or bill of exchange, in which no time for payment is specified, and a cheque, are payable on demand.

20. Inchoate stamped instruments.—Where one person signs and delivers to another a paper stamped in accordance with the law relating to negotiable instruments then in force in ²[India], and either wholly blank or having written thereon an incomplete negotiable instrument, he thereby gives *prima facie* authority to the holder thereof to make or complete, as the case may be, upon it a negotiable instrument, for any amount specified therein and not exceeding the amount covered by the stamp. The person so signing shall be liable upon such instrument, in the capacity in which he signed the same, to any holder in due course for such amount: provided that no person other than a holder in due course shall recover from the person delivering the instrument anything in excess of the amount intended by him to be paid thereunder.

21. “At sight”.—“On presentment”.—In a promissory note or bill of exchange the expressions “at sight” and “on presentment” mean on demand. The expression **“After sight”**—“after sight” means, in a promissory note, after presentment for sight, and, in a bill of exchange, after acceptance, or nothing for non-acceptance, or protest for non-acceptance.

22. “Maturity”.—The maturity of a promissory note or bill of exchange is the date at which it falls due.

Days of grace.—Every promissory note or bill of exchange which is not expressed to be payable on demand, at sight or on presentment is at maturity on the third day after the day on which it is expressed to be payable.

23. Calculating maturity of bill or note payable so many months after date or sight.—In calculating the date at which a promissory note or bill of exchange, made payable a stated number of months after date or after sight, or after a certain event, is at maturity, the period stated shall be held to terminate on the day of the month which corresponds with the day on which the instrument is dated, or presented for acceptance or sight, or noted for non-acceptance, or protested for non-acceptance, or the event happens, or, where the instrument is a bill of exchange made payable a stated number of months after sight and has been accepted for honour, with the day on which it was so accepted. If the month in which the period would terminate has no corresponding day, the period shall be held to terminate on the last day of such month.

Illustrations

(a) A negotiable instrument, dated 29th January, 1878, it made payable at one month after date. The instrument is at maturity on the third day after the 28th February, 1878.

(b) A negotiable instrument, dated 30th August, 1878, it made payable three months after date. The instrument is at maturity on the 3rd December, 1878.

(c) A promissory note or bill of exchange, dated 31st August, 1878, is made payable three months after date. The instrument is at maturity on the 3rd December, 1878.

1. Ins. by Act 5 of 1914, s. 3.

2. Subs. by Act 3 of 1951, s. 3 and the Sch., for “the States”.

24. Calculating maturity of bill or note payable so many days after date or sight.—In calculating the date at which a promissory note or bill of exchange made payable a certain number of days after date or after sight or after a certain event is at maturity, the day of the date, or of presentment for acceptance or sight, or of protest for non-acceptance, or on which the event happens, shall be excluded.

25. When day of maturity is a holiday.—When the day on which a promissory note or bill of exchange is at maturity is a public holiday, the instrument shall be deemed to be due on the next preceding, business day.

Explanation.—The expression “public holiday” includes Sundays: ^{1***} and any other day declared by the ²[Central Government], by notification in the Official Gazette, to be a public holiday.

CHAPTER III

PARTIES TO NOTES, BILLS AND CHEQUES.

26. Capacity to make, etc., promissory notes, etc.—Every person capable of contracting, according to the law to which he is subject, may bind himself and be bound by the making, drawing, acceptance, indorsement, delivery and negotiation of a promissory note, bill of exchange or cheque.

Minor.—A minor may draw, indorse, deliver and negotiate such instrument so as to bind all parties except himself.

Nothing herein contained shall be deemed to empower a corporation to make, indorse or accept such instruments except in cases in which, under the law for the time being in force, they are so empowered.

27. Agency.— Every person capable of binding himself or of being bound, as mentioned in section 26, may so bind himself or be bound by a duly authorized agent acting in his name.

A general authority to transact business and to receive and discharge debts does not confer upon an agent the power of accepting or indorsing bills of exchange so as to bind his principal.

An authority to draw bills of exchange does not of itself import an authority to indorse.

28. Liability of agent signing.—An agent who signs his name to a promissory note, bill of exchange or cheque without indicating thereon that he signs as agent, or that he does not intend thereby to incur personal responsibility, is liable personally on the instrument, except to those who induced him to sign upon the belief that the principal only would be held liable.

29. Liability of legal representative signing.—A legal representative of a deceased person who signs his name to a promissory note, bill of exchange or cheque is liable personally thereon unless he expressly limits his liability to the extent of the assets received by him as such.

30. Liability of drawer.—The drawer of a bill of exchange or cheque is bound, in case of dishonour by the drawee or acceptor thereof, to compensate the holder, provided due notice of dishonour has been given to, or received by, the drawer as hereinafter provided.

31. Liability of drawee of cheque.—The drawee of a cheque having sufficient funds of the drawer in his hands properly applicable to the payment of such cheque must pay the cheque when duly required so to do, and, in default of such payment, must compensate the drawer for any loss or damage caused by such default.

32. Liability of maker of note and acceptor of bill.—In the absence of a contract to the contrary, the maker of a promissory note and the acceptor before maturity of a bill of exchange are bound to pay the amount thereof at maturity according to the apparent tenor of the note or acceptance respectively, and the acceptor of a bill of exchange at or after maturity is bound to pay the amount thereof to the holder on demand.

In default of such payment as aforesaid, such maker or acceptor is bound to compensate any party to the note or bill for any loss or damage sustained by him and caused by such default.

1. The words “New Year's day, Christmas day: if either of such days falls on a Sunday, the next following Monday: Good-Friday.” omitted by Act 37 of 1955, s. 3 (w.e.f. 1-4-1956).

2. Subs by the A.O. 1937, for “L.G”.

33. Only drawee can be acceptor except in need or for honour.—No person except the drawee of a bill exchange, or all or some of several drawees, or a person named therein as a drawee in case of need, or an acceptor for honour, can bind himself by an acceptance.

34. Acceptance by several drawees not partners.—Where there are several drawees of a bill of exchange who are not partners, each of them can accept it for himself, but none of them can accept it for another without his authority.

35. Liability of indorser.—In the absence of a contract to the contrary, whoever indorses and delivers a negotiable instrument before maturity without, in such it indorsement, expressly excluding or making conditional his own liability, is bound thereby to every subsequent holder, in case of dishonour by the drawee, acceptor or maker, to compensate such holder for any loss or damage caused to him by such dishonour, provided due notice of dishonour has been given to, or received by, such indorser as hereinafter provided.

Every indorser after dishonour is liable as upon an instrument payable on demand.

36. Liability of prior parties to holder in due course.—Every prior party to a negotiable instrument is liable thereon to a holder in due course until the instrument is duly satisfied.

37. Maker, drawer and acceptor principals.—The maker of a promissory note or cheque, the drawer of a bill of exchange until acceptance, and the acceptor are, in the absence of a contract to the contrary, respectively liable thereon as principal debtors, and the other parties thereto are liable thereon as sureties for the maker, drawer or acceptor, as the case may be.

38. Prior party a principal in respect of each subsequent party.—As between the parties so liable as sureties, each prior party is, in the absence of a contract to the contrary, also liable thereon as a principal debtor in respect of each subsequent party.

Illustration

A draws a bill payable to his own order on B, who accepts. A afterwards indorses the bill to C, C to D, and D to E. As between E and B, B is the principal debtor, and A, C and D are his sureties. As between E and A, A is the principal debtor, and C and D are his sureties. As between E and C, C is the principal debtor and D is his surety.

39. Suretyship.—When the holder of an accepted bill of exchange enters into any contract with the acceptor which, under section 134 or 135 of the Indian Contract Act, 1872 (9 of 1872), would discharge the other parties, the holder may expressly reserve his right to charge the other parties, and in such case they are not discharged.

40. Discharge of indorser's liability.—Where the holder of a negotiable instrument, without the consent of the indorser, destroys or impairs the indorser's remedy against a prior party, the indorser is discharged from liability to the holder to the same extent as if the instrument had been paid at maturity.

Illustration

A is the holder of a bill of exchange made payable to the order of B, which contains the following indorsements in blank:—

First indorsement, "B".

Second indorsement, "Peter Williams".

Third indorsement, "Wright & Co."

Fourth indorsement, "John Rozario".

This bill A puts in suit against John Rozario and strikes out, without John Rozario's consent, the indorsements by Peter Williams and Wright & Co. A is not entitled to recover anything from John Rozario.

41. Acceptor bound, although, indorsement forged.—An acceptor of a bill of exchange already indorsed is not relieved from liability by reason that such indorsement is forged, if he knew or had reason to believe the indorsement to be forged when he accepted the bill.

42. Acceptance of bill drawn in fictitious name.—An acceptor of a bill of exchange drawn in a fictitious name and payable to the drawer's order is not, by reason that such name is fictitious, relieved from liability to any holder in due course claiming under an indorsement by the same hand as the drawer's signature, and purporting to be made by the drawer.

43. Negotiable instrument made, etc., without consideration.—A negotiable instrument made, drawn, accepted, indorsed or transferred without consideration, or for a consideration which fails, creates no obligation of payment between the parties to the transaction. But if any such party has transferred the instrument with or without indorsement to a holder for consideration, such holder, and every subsequent holder deriving title from him, may recover the amount due on such instrument from the transferor for consideration or any prior party thereto.

Exception I.—No party for whose accommodation a negotiable instrument has been made, drawn, accepted or indorsed can, if he have paid the amount thereof, recover thereon such amount from any person who became a party to such instrument for his accommodation.

Exception II.—No party to the instrument who has induced any other party to make, draw, accept, indorse or transfer the same to him for a consideration which he has failed to pay or perform in full shall recover thereon an amount exceeding the value of the consideration (if any) which he has actually paid or performed.

44. Partial absence or failure of money-consideration.—When the consideration for which a person signed a promissory note, bill of exchange or cheque consisted of money, and was originally absent in part or has subsequently failed in part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him is proportionally reduced.

Explanation.—The drawer of a bill of exchange stands in immediate relation with the acceptor. The maker of a promissory note, bill of exchange or cheque stands in immediate relation with the payee, and the indorser with his indorsee. Other signers may by agreement stand in immediate relation with a holder.

Illustration

A draws a bill on B for Rs. 500 payable to the order of A, B accepts the bill, but subsequently dishonours it by non-payment. A sues B on the bill, B proves that it was accepted for value as to Rs. 400, and as an accommodation to the plaintiff as to the residue. A can only recover Rs. 400.

45. Partial failure of consideration not consisting of money.—Where a part of the consideration for which a person signed a promissory note, bill of exchange or cheque, though not consisting of money, is ascertainable in money without collateral enquiry, and there has been a failure of that part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him is proportionally reduced.

¹[**45A. Holder's right to duplicate of lost bill.**—Where a bill of exchange has been lost before it is over-due, the person who was the holder of it may apply to the drawer to give him another bill of the same tenor, giving security to the drawer, if required, to indemnify him against all persons whatever in case the bill alleged to have been lost shall be found again.

If the drawer on request as aforesaid refuses to give such duplicate bill, he may be compelled to do so.]

CHAPTER IV OF NEGOTIATION

46. Delivery.—The making, acceptance or indorsement of a promissory note, bill of exchange or cheque is completed by delivery, actual or constructive.

As between parties standing in immediate relation, delivery to be effectual must be made by the party making, accepting or indorsing the instrument, or by a person authorized by him in that behalf.

As between such parties and any holder of the instrument other than a holder in due course, it may be shown that the instrument was delivered conditionally or for a special purpose only, and not for the purpose of transferring absolutely the property therein.

A promissory note, bill of exchange or cheque payable to bearer is negotiable by the delivery thereof.

A promissory note, bill of exchange or cheque payable to order is negotiable by the holder by indorsement and delivery thereof.

1. Ins. by Act 2 of 1885, s. 3.

47. Negotiation by delivery.—Subject to the provisions of section 58, a promissory note, bill of exchange or cheque payable to bearer is negotiable by delivery thereof.

Exception.—A promissory note, bill of exchange or cheque delivered on condition that it is not to take effect except in a certain event is not negotiable (except in the hands of a holder for value without notice of the condition) unless such event happens.

Illustrations

(a) A, the holder of a negotiable instrument payable to bearer, delivers it to B's agent to keep for B. The instrument has been negotiated.

(b) A, the holder of a negotiable instrument payable to bearer, which is in the hands of A's banker, who is at the time the banker of B, directs the banker to transfer the instrument to B's credit in the banker's account with B. The banker does so, and accordingly now possesses the instrument as B's agent. The instrument has been negotiated, and B has become the holder of it.

48. Negotiation by indorsement.—Subject to the provisions of section 58, a promissory note, bill of exchange or cheque¹ [payable to order], is negotiable by the holder by indorsement and delivery thereof.

49. Conversion of indorsement in blank into indorsement in full.—The holder of a negotiable instrument indorsed in blank may, without signing his own name, by writing above the indorser's signature a direction to pay to any other person as indorsee, convert the indorsement in blank into an indorsement in full; and the holder does not thereby incur the responsibility of an indorser.

50. Effect of indorsement.—The indorsement of a negotiable instrument followed by delivery transfers to the indorsee the property therein with the right of further negotiation; but the indorsement may, by express words, restrict or exclude such right, or may merely constitute the indorsee an agent to indorse the instrument, or to receive its contents for the indorser, or for some other specified person.

Illustrations

B signs the following indorsements on different negotiable instruments payable to bearer.—

- (a) "Pay the contents to C only".
- (b) "Pay C for my use."
- (c) "Pay C or order for the account of B."
- (d) "the within must be credited to C."

These indorsements exclude the right of further negotiation by C.

- (e) "Pay C."
- (f) "Pay C value in account with the Oriental Bank."

(g) "Pay the contents to C, being part of the consideration in a certain deed of assignment executed by C to the indorser and others."

These indorsements do not exclude the right of further negotiation by C.

51. Who may negotiate.—Every sole maker, drawer, payee or indorsee, or all of several joint makers, drawers, payees or indorsees, of a negotiable instrument may, if the negotiability of such instrument has not been restricted or excluded as mentioned in section 50, indorse and negotiate the same.

Explanation.—Nothing in this section enables a maker or drawer to indorse or negotiate an instrument, unless he is in lawful possession or is holder thereof; or enables a payee or indorsee to indorse or negotiate an instrument, unless he is holder thereof.

Illustration

A bill is drawn payable to A or order. A indorses it to B, the indorsement not containing the words "or order" or any equivalent words. B may negotiate the instrument.

52. Indorser who excludes his own liability or makes it conditional.—The indorser of a negotiable instrument may, by express words in the indorsement, exclude his own liability thereon, or make such

1. Subs. by Act 8 of 1919, s. 4, for "payable to the order of a specified person, or to a specified person or order".

liability or the right of the indorsee to receive the amount due thereon depend upon the happening of a specified event, although such event may never happen.

Where an indorser so excludes his liability and afterwards becomes the holder of the instrument, all intermediate indorsers are liable to him.

Illustrations

(a) The indorser of a negotiable instrument signs; his name adding the words—"Without recourse".

Upon this indorsement he incurs no liability.

(b) A is the payee and holder of a negotiable instrument. Excluding personal liability by an indorsement "without recourse" he transfers the instrument to B, and B indorses it to C, who indorses it to A. A is not only reinstated in his former rights, but has the rights of an indorsee against B and C.

53. Holder deriving title from holder in due course.—A holder of a negotiable instrument who derives title from a holder in due course has the rights thereon of that holder in due course.

54. Instrument indorsed in blank.—Subject to the provisions hereinafter contained as to crossed cheques, a negotiable instrument indorsed in blank is payable to the bearer thereof even although originally payable to order.

55. Conversion of indorsement in blank into indorsement in full.—If a negotiable instrument, after having been indorsed in blank, is indorsed in full, the amount of it cannot be claimed from the indorser in full, except by the person to whom it has been indorsed in full, or by one who derives title through such person.

56. Indorsement for part of sum due.—No writing on a negotiable instrument is valid for the purpose of negotiation if such writing purports to transfer only a part of the amount appearing to be due on the instrument; but where such amount has been partly paid, a note to that effect may be indorsed on the instrument, which may then be negotiated for the balance.

57. Legal representative cannot by delivery only negotiate instrument indorsed by deceased.—The legal representative of a deceased person cannot negotiate by delivery only a promissory note, bill of exchange or cheque payable to order and indorsed by the deceased but not delivered.

58. Instrument obtained by unlawful means or for unlawful consideration.—When a negotiable instrument has been lost, or has been obtained from any maker, acceptor or holder thereof by means of an offence or fraud, or for an unlawful consideration, no possessor or indorsee who claims through the person who found or so obtained the instrument is entitled to receive the amount due thereon from such maker, acceptor or holder, or from any party prior to such holder, unless such possessor or indorsee is, or some person through whom he claims was, a holder thereof in due course.

59. Instrument acquired after dishonour or when overdue.—The holder of a negotiable instrument, who has acquired it after dishonour, whether by non-acceptance or non-payment, with notice thereof, or after maturity, has only, as against the other parties, the rights thereon of his transferor:

Accommodation note or bill.—Provided that any person who, in good faith and for consideration, becomes the holder, after maturity, of a promissory note or bill of exchange made, drawn or accepted without consideration, for the purpose of enabling some party thereto to raise money thereon, may recover the amount of the note or bill from any prior party.

Illustration

The acceptor of a bill of exchange, when he accepted it, deposited with the drawer certain goods as a collateral security for the payment of the bill, with power to the drawer to sell the goods and apply the proceeds in discharge of the bill if it were not paid at maturity. The bill not having been paid at maturity, the drawer sold the goods and retained the proceeds, but indorsed the bill to A. A's title is subject to the same objection as the drawer's title.

60. Instrument negotiable till payment or satisfaction.—A negotiable instrument may be negotiated (except by the maker, drawee or acceptor after maturity) until payment or satisfaction thereof by the maker, drawee or acceptor at or after maturity, but not after such payment or satisfaction.

CHAPTER V

OF PRESENTMENT

61. Presentment for acceptance.—A bill of exchange payable after sight must, if no time or place is specified therein for presentment, be presented to the drawee thereof for acceptance, if he can, after reasonable search, be found, by a person entitled to demand acceptance, within a reasonable time after it is drawn, and in business hours on a business day. In default of such presentment, no party thereto is liable thereon to the person making such default.

If the drawee cannot, after reasonable search, be found, the bill is dishonoured.

If the bill is directed to the drawee at a particular place, it must be presented at that place; and if at the due date for presentment he cannot, after reasonable search, be found there, the bill is dishonoured.

¹[Where authorized by agreement or usage, a presentment through the post office by means of a registered letter is sufficient.]

62. Presentment of promissory note for sight.—A promissory note, payable at a certain period after sight, must be presented to the maker thereof for sight (if he can after reasonable search be found) by a person entitled to demand payment, within a reasonable time after it is made and in business hours on a business day. In default of such presentment, no party thereto is liable thereon to the person making such default.

63. Drawee's time for deliberation.—The holder must, if so required by the drawee of a bill of exchange presented to him for acceptance, allow the drawee ²[forty-eight] hours (exclusive of public holidays) to consider whether he will accept it.

64. Presentment for payment.—³[(1)] Promissory notes, bills of exchange and cheques must be presented for payment to the maker, acceptor or drawee thereof respectively, by or on behalf of the holder as hereinafter provided. In default of such presentment, the other parties thereto are not liable thereon to such holder.

¹[Where authorized by agreement or usage, a presentment through the post office by means of a registered letter is sufficient.]

Exception.—Where a promissory note is payable on demand and is not payable at a specified place, no presentment is necessary in order to charge the maker thereof.

⁴[(2) Notwithstanding anything contained in section 6, where an electronic image of a truncated cheque is presented for payment, the drawee bank is entitled to demand any further information regarding the truncated cheque from the bank holding the truncated cheque in case of any reasonable suspicion about the genuineness of the apparent tenor of instrument, and if the suspicion is that of any fraud, forgery, tampering or destruction of the instrument, it is entitled to further demand the presentment of the truncated cheque itself for verification:

Provided that the truncated cheque so demanded by the drawee bank shall be retained by it, if the payment is made accordingly.]

65. Hours for presentment—Presentment for payment must be made during the usual hours of business and, if at a banker's within banking hours.

66. Presentment for payment of instrument payable after date or sight—A promissory note or bill of exchange, made payable at a specified period after date or sight thereof, must be presented for payment at maturity.

67. Presentment for payment of promissory note payable by instalments.—A promissory note payable by instalments must be presented for payment on the third day after the date fixed for payment of each instalment; and non-payment on such presentment has the same effect as non-payment of a note at maturity.

1. Added by Act 2 of 1885, s. 4.

2. Subs. by Act 12 of 1921, s. 2, for "twenty-four".

3. Section 64 renumbered as sub-section (1) thereof by Act 55 of 2002, s. 3 (w.e.f. 6-2-2003).

4. Ins. by s. 3, *ibid*, (w.e.f. 6-2-2003).

68. Presentment for payment of instrument payable at specified place and not elsewhere.—A promissory note, bill of exchange or cheque made, drawn or accepted payable at a specified place and not elsewhere must, in order to charge any party thereto, be presented for payment at that place.

69. Instrument payable at specified place.—A promissory note or bill of exchange made, drawn or accepted payable at a specified place must, in order to charge the maker or drawer thereof, be presented for payment at that place.

70. Presentment where no exclusive place specified.—A promissory note or bill of exchange, not made payable as mentioned in sections 68 and 69, must be presented for payment at the place of business (if any), or at the usual residence, of the maker, drawee or acceptor thereof, as the case may be.

71. Presentment when maker, etc., has no known place of business or residence.—If the maker, drawee or acceptor of a negotiable instrument has no known place of business or fixed residence, and no place is specified in the instrument for presentment for acceptance or payment such presentment may be made to him in person wherever he can be found.

72. Presentment of cheque to charge drawer.—¹[Subject to the provisions of section 84,] a cheque must, in order to charge the drawer, be presented at the bank upon which it is drawn before the relation between the drawer and his banker has been altered to the prejudice of the drawer.

73. Presentment of cheque to charge any other person.—A cheque must, in order to charge any person except the drawer, be presented within a reasonable time after delivery thereof by such person.

74. Presentment of instrument payable on demand.—Subject to the provisions of section 31, a negotiable instrument payable on demand must be presented for payment within a reasonable time after it is received by the holder.

75. Presentment by or to agent, representative of deceased, or assignee of insolvent.—Presentment for acceptance or payment may be made to the duly authorized agent of the drawee, maker or acceptor, as the case may be, or, where the drawee, maker or acceptor has died, to his legal representative, or, where he has been declared an insolvent, to his assignee.

2[75A. Excuse for delay in presentment for acceptance or payment]—Delay in presentment ³[for acceptance or payment] is excused if the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, presentment must be made within a reasonable time.]

76. When presentment unnecessary.—No presentment for payment is necessary, and the instrument is dishonoured at the due date for presentment, in any of the following cases:—

(a) if the maker, drawee or acceptor intentionally prevents the presentment of the instrument, or,

if the instrument being payable at his place of business, he closes such place on a business day during the usual business hours, or,

if the instrument being payable at some other specified place, neither he nor any person authorized to pay it attends at such place during the usual business hours, or,

if the instrument not being payable at any specified place, he cannot after due search be found;

(b) as against any party sought to be charged therewith, if he has engaged to pay notwithstanding non-presentment;

(c) as against any party if, after maturity, with knowledge that the instrument has not been presented—

he makes a part payment on account of the amount due on the instrument,
or promises to pay the amount due thereon in whole or in part,

1. Ins. by Act 6 of 1897, s. 2.

2. Ins. by Act 25 of 1920, s. 2.

3. Subs. by Act 12 of 1921, s. 3, for "for payment".

or otherwise waives his right to take advantage of any default in presentment for payment;

(d) as against the drawer, if the drawer could not suffer damage from the want of such presentment.

77. Liability of banker for negligently dealing with bill presented for payment.—When a bill of exchange, accepted payable at a specified bank, has been duly presented there for payment and dishonoured, if the banker so negligently or improperly keeps, deals with or delivers back such bill as to cause loss to the holder, he must compensate the holder for such loss.

CHAPTER VI

OF PAYMENT AND INTEREST

78. To whom payment should be made.—Subject to the provisions of section 82, clause (c), payment of the amount due on a promissory note, bill of exchange or cheque must, in order to discharge the maker or acceptor, be made to the holder of the instrument.

79. Interest when rate specified.—When interest at a specified rate is expressly made payable on a promissory note or bill of exchange, interest shall be calculated at the rate specified, on the amount of the principal money due thereon, from the date of the instrument, until tender or realization of such amount, or until such date after the institution of a suit to recover such amount as the Court directs.

80. Interest when no rate specified.—When no rate of interest is specified in the instrument, interest on the amount due thereon shall,¹ [notwithstanding any agreement relating to interest between any parties to the instrument], be calculated at the rate of² [eighteen per centum] per annum, from the date at which the same ought to have been paid by the party charged, until tender or realization of the amount due thereon, or until such date after the institution of a suit to recover such a mount as the Court directs.

Explanation.—When the party charged is the indorser of an instrument dishonoured by non-payment, he is liable to pay interest only from the time that he receives notice of the dishonour.

81. Delivery of instrument on payment or indemnity in case of loss.—³ [(1)] Any person liable to pay, and called upon by the holder thereof to pay, the amount due on a promissory note, bill of exchange or cheque is before payment entitled to have it shown, and is on payment entitled to have it delivered up, to him, or if the instrument is lost or cannot be produced, to be indemnified against any further claim thereon against him.

⁴ [(2)] Where the cheque is an electronic image of a truncated cheque, even after the payment the banker who received the payment shall be entitled to retain the truncated cheque.

(3) A certificate issued on the foot of the printout of the electronic image of a truncated cheque by the banker who paid the instrument, shall be *prima facie* proof of such payment.]

CHAPTER VII

OF DISCHARGE FROM LIABILITY ON NOTES, BILLS AND CHEQUES

82. Discharge from liability.—The maker, acceptor or indorser respectively of a negotiable instrument is discharged from liability thereon—

(a) **by cancellation.**—to a holder thereof who cancels such acceptor's or indorser's name with intent to discharge him, and to all parties claiming under such holder;

(b) **by release.**—to a holder thereof who otherwise discharges such maker, acceptor or indorser, and to all parties deriving title under such holder after notice of such discharge;

(c) **by payment.**—to all parties thereto, if the instrument is payable to bearer, or has been indorsed in blank, and such maker, acceptor or indorser makes payment in due course of the amount due thereon.

1. Subs. by Act 30 of 1926, s. 2, for "except in cases provided for by the Code of Civil Procedure, s. 532".

2. Subs. by Act 66 of 1988, s. 2, for "six per centum" (w.e.f. 30-12-1988).

3. Section 81 re-numbered as sub-section (1) thereof by Act 55 of 2002, s. 4 (w.e.f. 6-2-2003).

4. Ins. by s. 4, *ibid.* (w.e.f. 6-2-2003).

83. Discharge by allowing drawee more than forty-eight hours to accept.—If the holder of a bill of exchange allows the drawee more than ¹[forty-eight] hours, exclusive of public holidays, to consider whether he will accept the same, all previous parties not consenting to such allowance are thereby discharged from liability to such holder.

²[84. When cheque not duly presented and drawer damaged thereby.]—(1) Where a cheque is not presented for payment within a reasonable time of its issue, and the drawer or person on whose account it is drawn had the right, at the time when presentment ought to have been made, as between himself and the banker, to have the cheque paid and suffers actual damage through the delay, he is discharged to the extent of such damage, that is to say, to the extent to which such drawer or person is a creditor of the banker to a large amount than he would have been if such cheque had been paid.

(2) In determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade and of bankers, and the facts of the particular case.

(3) The holder of the cheque as to which such drawer or person is so discharged shall be a creditor, in lieu of such drawer or person, of such banker to the extent of such discharge and entitled to recover the amount from him.

Illustrations

(a) A draws a cheque for Rs. 1,000, and, when the cheque ought to be presented, has funds at the bank to meet it. The bank fails before the cheque is presented. The drawer is discharged, but the holder can prove against the bank for the amount of the cheque.

(b) A draws a cheque at Umballa on a bank in Calcutta. The bank fails before the cheque could be presented in ordinary course. A is not discharged, for he has not suffered actual damage through any delay in presenting the cheque.]

85. Cheque payable to order.—³[(1)] Where a cheque payable to order purports to be endorsed by or on behalf of the payee, the drawee is discharged by payment in due course.

⁴[(2) Where a cheque is originally expressed to be payable to bearer, the drawee is discharged by payment in due course to the bearer thereof, notwithstanding any endorsement whether in full or in blank appearing thereon, and notwithstanding that any such endorsement purports to restrict or exclude further negotiation.]

⁵[85A. Drafts drawn by one branch of a bank on another payable to order.]—Where any draft, that is an order to pay money, drawn by one office of a bank upon another office of the same bank for a sum of money payable to order on demand, purports to be endorsed by or on behalf of the payee, the bank is discharged by payment in due course.]

86. Parties not consenting discharged by qualified or limited acceptance.—If the holder of a bill of exchange acquiesces in a qualified acceptance, or one limited to part of the sum mentioned in the bill, or which substitutes a different place or time for payment, or which, where the drawees are not partners, is not signed by all the drawees, all previous parties whose consent is not obtained to such acceptance are discharged as against the holder and those claiming under him, unless on notice given by the holder they assent to such acceptance.

Explanation.—An acceptance is qualified

(a) where it is conditional, declaring the payment to be dependent on the happening of an event therein stated;

(b) where it undertakes the payment of part only of the sum ordered to be paid;

1. Subs. by Act 12 of 1921, s. 2, for "twenty-four".

2. Subs. by Act 6 of 1897, s. 3, for s. 84.

3. S. 85 re-numbered as sub-section (1) thereof by Act 17 of 1934, s. 2.

4. Ins. by s. 2, *ibid.*

5. Ins. by Act 25 of 1930, s. 2.

(c) where no place of payment being specified on the order, it undertakes the payment at a specified place, and not otherwise or elsewhere; or where, a place of payment being specified in the order, it undertakes the payment at some other place and not otherwise or elsewhere;

(d) where it undertakes the payment at a time other than that at which under the order it would be legally due.

87. Effect of material alteration.—Any material alteration of a negotiable instrument renders the same void as against anyone who is a party thereto at the time of making such alteration and does not consent thereto, unless it was made in order to carry out the common intention of the original parties;

Alteration by indorsee.—And any such alteration, if made by an indorsee, discharges his indorser from all liability to him in respect of the consideration thereof.

The provisions of this section are subject to those of sections 20, 49, 86 and 125.

88. Acceptor or indorser bound notwithstanding previous alteration.—An acceptor or indorser of a negotiable instrument is bound by his acceptance or indorsement notwithstanding any previous alteration of the instrument.

89. Payment of instrument on which alteration is not apparent.—¹[(1)] Where a promissory note, bill of exchange or cheque has been materially altered but does not appear to have been so altered, or where a cheque is presented for payment which does not at the time of presentation appear to be crossed or to have had a crossing which has been obliterated, payment thereof by a person or banker liable to pay, and paying the same according to the apparent tenor thereof at the time of payment and otherwise in due course, shall discharge such person or banker from all liability thereon; and such payment shall not be questioned by reason of the instrument having been altered or the cheque crossed.

²[(2)] Where the cheque is an electronic image of a truncated cheque, any difference in apparent tenor of such electronic image and the truncated cheque shall be a material alteration and it shall be the duty of the bank or the clearing house, as the case may be, to ensure the exactness of the apparent tenor of electronic image of the truncated cheque while truncating and transmitting the image.

(3) Any bank or a clearing house which receives a transmitted electronic image of a truncated cheque, shall verify from the party who transmitted the image to it, that the image so transmitted to it and received by it, is exactly the same.]

90. Extinguishment of rights of action on bill in acceptor's hands.—If a bill of exchange which has been negotiated is, at or after maturity, held by the acceptor in his own right, all rights of action thereon are extinguished.

CHAPTER VIII

OF NOTICE OF DISHONOUR

91. Dishonour by non-acceptance.—A bill of exchange is said to be dishonoured by non-acceptance when the drawee, or one of several drawees not being partners, makes default in acceptance upon being duly required to accept the bill, or where presentment is excused and the bill is not accepted.

Where the drawee is incompetent to contract, or the acceptance is qualified the bill may be treated as dishonoured.

92. Dishonour by non-payment.—A promissory note, bill of exchange or cheque is said to be dishonoured by non-payment when the maker of the note, acceptor of the bill or drawee of the cheque makes default in payment upon being duly required to pay the same.

93. By and to whom notice should be given.—When a promissory note, bill of exchange or cheque is dishonoured by non-acceptance or non-payment, the holder thereof, or some party thereto who remains

1. Section 89 re-numbered as sub-section (1) thereof by Act 55 of 2002, s. 5 (w.e.f. 6-2-2003).

2. Ins. by, s. 5, *ibid*, (w.e.f. 6-2-2003).

liable thereon, must give notice that the instrument has been so dishonoured to all other parties whom the holder seeks to make severally liable thereon, and to some one of several parties whom he seeks to make jointly liable thereon.

Nothing in this section renders it necessary to give notice to the maker of the dishonoured promissory note or the drawee or acceptor of the dishonoured bill of exchange or cheque.

94. Mode in which notice may be given.—Notice of dishonour may be given to a duly authorized agent of the person to whom it is required to be given, or, where he has died, to his legal representative, or, where he has been declared an insolvent, to his assignee; may be oral or written; may, if written, be sent by post; and may be in any form; but it must inform the party to whom it is given, either in express terms or by reasonable intendment, that the instrument has been dishonoured, and in what way, and that he will be held liable thereon; and it must be given within a reasonable time after dishonour, at the place of business or (in case such party has no place of business) at the residence of the party for whom it is intended.

If the notice is duly directed and sent by post and miscarries, such miscarriage does not render the notice invalid.

95. Party receiving must transmit notice of dishonour.—Any party receiving notice of dishonour must, in order to render any prior party liable to himself, give notice of dishonour to such party within a reasonable time, unless such party otherwise receives due notice as provided by section 93.

96. Agent for presentment.—When the instrument is deposited with an agent for presentment, the agent is entitled to the same time to give notice to his principal as if he were the holder giving notice of dishonour, and the principal is entitled to a further like period to give notice of dishonour.

97. When party to whom notice given is dead.—When the party to whom notice of dishonour is dispatched is dead, but the party dispatching the notice is ignorant of his death, the notice is sufficient.

98. When notice of dishonour is unnecessary.—No notice of dishonour is necessary—

- (a) when it is dispensed with by the party entitled thereto;
- (b) in order to charge the drawer, when he has countermanded payment;
- (c) when the party charged could not suffer damage for want of notice;
- (d) when the party entitled to notice cannot after due search be found; or the party bound to give notice is, for any other reason, unable without any fault of his own to give it;
- (e) to charge the drawers, when the acceptor is also a drawer;
- (f) in the case of a promissory note which is not negotiable;
- (g) when the party entitled to notice, knowing the facts, promises unconditionally to pay the amount due on the instrument.

CHAPTER IX

OF NOTING AND PROTEST

99. Noting.—When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may cause such dishonour to be noted by a notary public upon the instrument, or upon a paper attached thereto, or partly upon each.

Such note must be made within a reasonable time after dishonour, and must specify the date of dishonour, the reason, if any, assigned for such dishonour, or, if the instrument has not been expressly dishonoured, the reason why the holder treats it as dishonoured, and the notary's charges.

100. Protest.—When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may, within a reasonable time, cause such dishonour to be noted and certified by a notary public. Such certificate is called a protest.

Protest for better security.—When the acceptor of a bill of exchange has become insolvent, or his credit has been publicly impeached, before the maturity of the bill, the holder may, within a reasonable time, cause a notary public to demand better security of the acceptor, and on its being

refused may, within a reasonable time, cause such facts to be noted and certified as aforesaid. Such certificate is called a protest for better security.

101. Contents of protest.—A protest under section 100 must contain—

- (a) either the instrument itself, or a literal transcript of the instrument and of everything written or printed thereupon;
- (b) the name of the person for whom and against whom the instrument has been protested;
- (c) a statement that payment or acceptance, or better security, as the case may be, has been demanded of such person by the notary public; the terms of his answer, if any, or a statement that he gave no answer, or that he could not be found;
- (d) when the note or bill has been dishonoured, the place and time of dishonour, and, when better security has been refused, the place and time of refusal;
- (e) the subscription of the notary public making the protest;
- (f) in the event of an acceptance for honour or of a payment for honour, the name of the person by whom, of the person for whom, and the manner in which, such acceptance or payment was offered and effected.

¹[A notary public may make the demand mentioned in clause (c) of this section either in person or by his clerk or, where authorized by agreement or usage, by registered letter.]

102. Notice of protest.—When a promissory note or bill of exchange is required by law to be protested, notice of such protest must be given instead of notice of dishonour, in the same manner and subject to the same conditions; but the notice may be given by the notary public who makes the protest.

103. Protest for non-payment after dishonour by non-acceptance.—All bills of exchange drawn payable at some other place than the place mentioned as the residence of the drawee, and which are dishonoured by non-acceptance, may, without further presentment to the drawee, be protested for non-payment, in the place specified for payment, unless paid before or at maturity.

104. Protest of foreign bills.—Foreign bills of exchange must be protested for dishonour when such protest is required by the law of the place where they are drawn.

²[**104A. When noting equivalent to protest.**—For the purposes of this Act, where a bill of note is required to be protested within a specified time or before some further proceeding is taken it is sufficient that the bill has been noted for protest before the expiration of the specified time or the taking of the proceeding; and, the formal protest may be extended at any time thereafter as of the date of the noting.]

CHAPTER X

OF REASONABLE TIME

105. Reasonable time.—In determining what is a reasonable time for presentment for acceptance or payment, for giving notice of dishonour and for noting, regard shall be had to the nature of the instrument and the usual course of dealing with respect to similar instruments; and, in calculating such time, public holidays shall be excluded.

106. Reasonable time of giving notice of dishonour.—If the holder and the party to whom notice of dishonour is given carry on business or live (as the case may be) in different places, such notice is given within a reasonable time if it is dispatched by the next post or on the day next after the day of dishonour.

If the said parties carry on business or live in the same place, such notice is given within a reasonable time if it is dispatched in time to reach its destination on the day next after the day of dishonour.

107. Reasonable time for transmitting such notice.—A party receiving notice of dishonour, who seeks to enforce his right against a prior party, transmits the notice within a reasonable time if he

1. Ins. by Act 2 of 1885, s. 5.

2. Ins. by s. 6, *ibid.*

transmits it within the same time after its receipt as he would have had to give notice if he had been the holder.

CHAPTER XI

OF ACCEPTANCE AND PAYMENT FOR HONOUR AND REFERENCE IN CASE OF NEED

108. Acceptance for honour.—When a bill of exchange has been noted or protested for non-acceptance or for better security, any person not being a party already liable thereon may, with the consent of the holder, by writing on the bill, accept the same for the honour of any party thereto.^{1***}

109. How acceptance for honour must be made.—A person desiring to accept for honour must,²[by writing on the bill under his hand,] declare that he accepts under protest the protested bill for the honour of the drawer or of a particular indorser whom he names, or generally for honour.^{3***}

110. Acceptance not specifying for whose honour it is made.—Where the acceptance does not express for whose honour it is made it shall be deemed to be made for the honour of the drawer.

111. Liability of acceptor for honour.—An acceptor for honour binds himself to all parties subsequent to the party for whose honour he accepts to pay the amount of the bill if the drawee do not; and such party and all prior parties are liable in their respective capacities to compensate the acceptor for honour for all loss or damage sustained by him in consequence of such acceptance.

But an acceptor for honour is not liable to the holder of the bill unless it is presented, or (in case the address given by such acceptor on the bill is a place other than the place where the bill is made payable) forwarded for presentment, not later than the day next after the day of its maturity.

112. When acceptor for honour may be charged.—An acceptor for honour cannot be charged unless the bill has at its maturity been presented to the drawee for payment, and has been dishonoured by him, and noted or protested for such dishonour.

113. Payment for honour.—When a bill of exchange has been noted or protested for non-payment, any person may pay the same for the honour of any party liable to pay the same: provided that the person so paying⁴[or his agent in that behalf] has previously declared before a notary public the party for whose honour he pays, and that such declaration has been recorded by such notary public.

114. Right of payer for honour.—Any person so paying is entitled to all the rights in respect of the bill, of the holder at the time of such payment, and may recover from the party for whose honour he pays all sums so paid, with interest thereon and with all expenses properly incurred in making such payment.

115. Drawee in case of need.—Where a drawee in case of need is named in a bill of exchange, or in any indorsement thereon, the bill is not dishonoured until it has been dishonoured by such drawee.

116. Acceptance and payment without protest.—A drawee in case of need may accept and pay the bill of exchange without previous protest.

CHAPTER XII

OF COMPENSATION

117. Rules as to compensation.—The compensation payable in case of dishonour of a promissory note, bill of exchange or cheque, by any party liable to the holder or any indorsee, shall^{5***} be determined by the following rules:—

(a) the holder is entitled to the amount due upon the instrument together with the expenses properly incurred in presenting, noting and protesting it;

1. The second sentence rep. by Act 2 of 1885, s. 7.

2. Subs. by s. 8, *ibid.*, for "in the presence of a notary public, subscribe the bill with his own hand, and".

3. The words "and such declaration must be recorded by the notary in his register" rep. by s. 8, *ibid.*

4. Ins. by Act 2 of 1885, s. 9.

5. The brackets, words and figures "(except in cases provided for by the Code of Civil Procedure, s. 532)" omitted by Act 30 of 1926, s. 3.

(b) when the person charged resides at a place different from that at which the instrument was payable, the holder is entitled to receive such sum at the current rate of exchange between the two places;

(c) an indorser who, being liable, has paid the amount due on the same is entitled to the amount so paid with interest at¹[eighteen per centum] per annum from the date of payment until tender or realization thereof, together with all expenses caused by the dishonour and payment;

(d) when the person charged and such indorser reside at different places, the indorser is entitled to receive such sum at the current rate of exchange between the two places;

(e) the party entitled to compensation may draw a bill upon the party liable to compensate him, payable at sight or on demand, for the amount due to him, together with all expenses properly incurred by him. Such bill must be accompanied by the instrument dishonoured and the protest thereof (if any). If such bill is dishonoured, the party dishonouring the same is liable to make compensation thereof in the same manner as in the case of the original bill.

CHAPTER XIII

SPECIAL RULES OF EVIDENCE

118. Presumptions as to negotiable instruments.—Until the contrary is proved, the following presumptions shall be made:—

(a) **of consideration:**—that every negotiable instrument was made or drawn for consideration, and that every such instrument, when it has been accepted, indorsed, negotiated or transferred, was accepted, indorsed, negotiated or transferred for consideration;

(b) **as to date:**—that every negotiable instrument bearing a date was made or drawn on such date;

(c) **as to time of acceptance:**—that every accepted bill of exchange was accepted within a reasonable time after its date and before its maturity;

(d) **as to time of transfer:**—that every transfer of a negotiable instrument was made before its nativity;

(e) **as to order of endorsements:**—that the endorsements appearing upon a negotiable instrument were made in the order in which they appear then on;

(f) **as to stamp:**— that a lost promissory note, bill of exchange or cheque was duly stamped;

(g) **that holder is a holder in due course:**—that the holder of a negotiable instrument is a holder in due course: provided that, where the instrument has been obtained from its lawful owner, or from any person in lawful custody thereof, by means of an offence or fraud, or has been obtained from the maker or acceptor thereof by means of an offence or fraud, or for unlawful consideration, the burden of proving that the holder is a holder in due course lies upon him.

119. Presumption on proof of protest.—In a suit upon an instrument which has been dishonoured, the Court shall, on proof of the protest, presume the fact of dishonour, unless and until such fact is disproved.

120. Estoppel against denying original validity of instrument.—No maker of a promissory note, and no drawer of a bill of exchange or cheque, and no acceptor of a bill of exchange for the honour of the drawer shall, in a suit thereon by a holder in due course, be permitted to deny the validity of the instrument as originally made or drawn.

121. Estoppel against denying capacity of payee to indorse.—No maker of a promissory note and no acceptor of a bill of exchange²[payable to order] shall, in a suit thereon by a holder in due course, be permitted to deny the payee's capacity, at the date of the note or bill, to indorse the same.

1. Subs. by Act 66 of 1988, s. 3, for "six per centum" (w.e.f . 30 - 12 - 1988).

2. Subs. by Act 8 of 1919, s. 5, for "payable to, or to the order" of, a specified person".

122. Estoppel against denying signature or capacity of prior party.—No indorser of a negotiable instrument shall, in a suit thereon by a subsequent holder, be permitted to deny the signature or capacity to contract of any prior party to the instrument.

CHAPTER XIV OF CROSSED CHEQUES

123. Cheque crossed generally.—Where a cheque bears across its face an addition of the words “and company” or any abbreviation thereof, between two parallel transverse lines, or of two parallel transverse lines simply, either with or without the words “not negotiable,” that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed generally.

124. Cheque crossed specially.—Where a cheque bears across its face an addition of the name of a banker, either with or without the words “not negotiable,” that addition shall be deemed a crossing and the cheque shall be deemed to be crossed specially, and to be crossed to that banker.

125. Crossing after issue.—Where a cheque is uncrossed, the holder may cross it generally or specially.

Where a cheque is crossed generally, the holder may cross it specially.

Where a cheque is crossed generally, or specially, the holder may add the words “not negotiable”.

Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker, his agent, for collection.

126. Payment of cheque crossed generally.—Where a cheque is crossed generally, the banker on whom it is drawn shall not pay it otherwise than to a banker.

Payment of cheque crossed specially.—Where a cheque is crossed specially, the banker on whom it is drawn shall not pay it otherwise than to the banker to whom it is crossed, or his agent for collection.

127. Payment of cheque crossed specially more than once.—Where a cheque is crossed specially to more than one banker, except when crossed to an agent for the purpose of collection, the banker on whom it is drawn shall refuse payment thereof.

128. Payment in due course of crossed cheque.—Where the banker on whom a crossed cheque is drawn has paid the same in due course, the banker paying the cheque, and (in case such cheque has come to the hands of the payee) the drawer thereof, shall respectively be entitled to the same rights, and be placed in the same position in all respects, as they would respectively be entitled to and placed in if the amount of the cheque had been paid to and received by the true owner thereof.

129. Payment of crossed cheque out of due course.—Any banker paying a cheque crossed generally otherwise than to a banker, or a cheque crossed specially otherwise than to the banker to whom the same is crossed, or his agent for collection, being a banker, shall be liable to the true owner of the cheque for any loss he may sustain owing to the cheque having been so paid.

130. Cheque bearing “not negotiable”.—A person taking a cheque crossed generally or specially, bearing in either case the words “not negotiable,” shall not have, and shall not be capable of giving, a better title to the cheque than that which the person from whom he took it had.

131. Non-liability of banker receiving payment of cheque.—A banker who has in good faith and without negligence received payment for a customer of a cheque crossed generally or specially to himself shall not, in case the title to the cheque proves defective, incur any liability to the true owner of the cheque by reason only of having received such payment.

¹[Explanation ²[(I)].— A banker receives payment of a crossed cheque for a customer within the meaning of this section notwithstanding that he credits his customer’s account with the amount of the cheque before receiving payment thereof.]

1. Ins. by Act 18 of 1922, s. 2.

2. Explanation re-numbered as Explanation I thereof by Act 55 of 2002, s. 6 (w.e.f. 6-2-2003).

¹[Explanation II.—It shall be the duty of the banker who receives payment based on an electronic image of a truncated cheque held with him, to verify the *prima facie* genuineness of the cheque to be truncated and any fraud, forgery or tampering apparent on the face of the instrument that can be verified with due diligence and ordinary care.]

²[**131A. Application of Chapter to drafts.**—The provisions of this Chapter shall apply to any draft, as defined in section 85A, as if the draft were a cheque.]

CHAPTER XV OF BILLS IN SETS

132 Set of bills.—Bills of exchange may be drawn in parts, each part being numbered and containing a provision that it shall continue payable only so long as the others remain unpaid. All the parts together make a set; but the whole set constitutes only one bill, and is extinguished when one of the parts, if a separate bill, would be extinguished.

Exception.—When a person accepts or indorses different parts of the bill in favour of different persons, he and the subsequent endorsers of each part are liable on such part as if it were a separate bill.

133. Holder of first acquired part entitled to all—As between holders in due course of different parts of the same set, he who first acquired title to his part is entitled to the other parts and the money represented by the bill.

CHAPTER XVI OF INTERNATIONAL LAW

134. Law governing liability of maker, acceptor or indorser of foreign instrument.—In the absence of a contract to the contrary, the liability of the maker or drawer of a foreign promissory note, bill of exchange or cheque is regulated in all essential matters by the law of the place where he made the instrument, and the respective liabilities of the acceptor and indorser by the law of the place where the instrument is made payable.

Illustration

A bill of exchange was drawn by A in California, where the rate of interest is 25 per cent., and accepted by B, payable in Washington, where the rate of interest is 6 per cent. The bill is endorsed in ³[India], and is dishonoured. An action on the bill is brought against B in ³[India]. He is liable to pay interest at the rate of 6 per cent. only; but if A is charged as drawer, A is liable to pay interest at the rate of 25 per cent.

135. Law of place of payment governs dishonour.—Where a promissory note, bill of exchange or cheque is made payable in a different place from that in which it is made or indorsed, the law of the place where it is made payable determines what constitutes dishonour and what notice of dishonour is sufficient.

Illustration

A bill of exchange drawn and indorsed in ³[India], but accepted payable in France, is dishonoured. The indorsee causes it to be protested for such dishonour, and gives notice thereof in accordance with the law of France, though not in accordance with the rules herein contained in respect of bills which are not foreign. The notice is sufficient.

136. Instrument made, etc., out of India, but in accordance with the law of India.—If a negotiable instrument is made, drawn, accepted or indorsed ⁴[outside India], but in accordance with the ⁵[law of India], the circumstances that any agreement evidenced by such instrument is invalid according to the law of the country wherein it was entered into does not invalidate any subsequent acceptance or indorsement made thereon ⁶[within India].

1. Ins. by Act 55 of 2002, s. 6 (w.e.f. 6-2-2003).

2. Ins. by Act 33 of 1947, s. 2.

3. Subs. by Act 3 of 1951, s. 3 and the Schedule for “the States”.

4. Subs. by the A.O. 1948, A.O. 1950 and the Act 3 of 1951, s. 3 and the Sch. for “out of British India”.

5. Subs. by s. 3, *ibid.*, for “law of British India”.

6. Subs. by s. 3, *ibid.*, for “in British India”.

137. Presumption as to foreign law.—The law of any foreign country^{1***} regarding promissory notes, bills of exchange and cheques shall be presumed to be the same as that of²[India], unless and until the contrary is proved.

³[CHAPTER XVII]

OF PENALTIES IN CASE OF DISHONOUR OF CERTAIN CHEQUES FOR INSUFFICIENCY OF FUNDS IN THE ACCOUNTS

138. Dishonour of cheque for insufficiency, etc., of funds in the account.—Where any cheque drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability, is returned by the bank unpaid, either because of the amount of money standing to the credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank, such person shall be deemed to have committed an offence and shall, without prejudice to any other provision of this Act, be punished with imprisonment for⁴[a term which may be extended to two years'], or with fine which may extend to twice the amount of the cheque, or with both:

Provided that nothing contained in this section shall apply unless—

(a) the cheque has been presented to the bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier;

(b) the payee or the holder in due course of the cheque, as the case may be, makes a demand for the payment of the said amount of money by giving a notice; in writing, to the drawer of the cheque,⁵[within thirty days] of the receipt of information by him from the bank regarding the return of the cheque as unpaid; and

(c) the drawer of such cheque fails to make the payment of the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, within fifteen days of the receipt of the said notice.

Explanation.—For the purposes of this section, “debt of other liability” means a legally enforceable debt or other liability.

139. Presumption in favour of holder.—It shall be presumed, unless the contrary is proved, that the holder of a cheque received the cheque of the nature referred to in section 138 for the discharge, in whole or in part, of any debt or other liability.

140. Defence which may not be allowed in any prosecution under section 138.—It shall not be a defence in a prosecution for an offence under section 138 that the drawer had no reason to believe when he issued the cheque that the cheque may be dishonoured on presentation for the reasons stated in that section.

141. Offences by companies.—(1) If the person committing an offence under section 138 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 person liable to punishment if he proves that the offence was committed without his knowledge, or that he had exercised all due diligence to prevent the commission of such offence:

⁶[Provided further that where a person is nominated as a Director of a company by virtue of his holding any office or employment in the Central Government or State Government or a financial

1. The words “or the State of Jammu and Kashmir” omitted by Act 62 of 1956, s. 2 and the Schedule.

2. Subs. by the A.O. 1948, A.O. 1950 and the Act 3 of 1951, s. 3 and the Schedule for “British India”.

3. Ins. by Act 66 of 1988, s. 4 (w.e.f. 1-4-1989).

4. Subs. by Act 55 of 2002, s. 7, for certain words (w.e.f. 6-2-2003).

5. Subs. by s. 7, *ibid.*, for “within fifteen days” (w.e.f. 6-2-2003).

6. Ins. by s. 8, *ibid.* (w.e.f. 6-2-2003).

corporation owned or controlled by the Central Government or the State Government, as the case may be, he shall not be liable for prosecution under this Chapter.]

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

Explanation.—For the purposes of this section,—

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

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

142. Cognizance of offences.—¹[(1)] Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) no court shall take cognizance of any offence punishable under section 138 except upon a complaint, in writing, made by the payee or, as the case may be, the holder in due course of the cheque;

(b) such complaint is made within one month of the date on which the cause of action arises under clause (c) of the proviso to section 138:

²[Provided that the cognizance of a complaint may be taken by the Court after the prescribed period, if the complainant satisfies the Court that he had sufficient cause for not making a complaint within such period;]

(c) no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under section 138].

³[(2) The offence under section 138 shall be inquired into and tried only by a court within whose local jurisdiction,—

(a) if the cheque is delivered for collection through an account, the branch of the bank where the payee or holder in due course, as the case may be, maintains the account, is situated; or

(b) if the cheque is presented for payment by the payee or holder in due course, otherwise through an account, the branch of the drawee bank where the drawer maintains the account, is situated.

Explanation.—For the purposes of clause (a), where a cheque is delivered for collection at any branch of the bank of the payee or holder in due course, then, the cheque shall be deemed to have been delivered to the branch of the bank in which the payee or holder in due course, as the case may be, maintains the account.]

⁴[(**142A. Validation for transfer of pending cases.**)—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or any judgment, decree, order or direction of any court, all cases transferred to the court having jurisdiction under sub-section (2) of section 142, as amended by the Negotiable Instruments (Amendment) Ordinance, 2015 (Ord. 6 of 2015), shall be deemed to have been transferred under this Act, as if that sub-section had been in force at all material times.

(2) Notwithstanding anything contained in sub-section (2) of section 142 or sub-section (1), where the payee or the holder in due course, as the case may be, has filed a complaint against the drawer of a cheque in the court having jurisdiction under sub-section (2) of section 142 or the case has been transferred to that court under sub-section (1) and such complaint is pending in that court, all subsequent complaints arising out of section 138 against the same drawer shall be filed before the same court irrespective of

1. Section 142 numbered as sub-section (1) thereof by Act 26 of 2015, s. 3 (w.e.f. 15-6-2015).

2. Ins. by Act 55 of 2002, s. 9 (w.e.f. 6-2-2003).

3. Ins. Act 26 of 2015, s. 3 (w.e.f. 15-6-2015).

4. Ins. by, s. 4, *ibid.* (w.e.f. 15-6-2015).

whether those cheques were delivered for collection or presented for payment within the territorial jurisdiction of that court.

(3) If, on the date of the commencement of the Negotiable Instruments (Amendment) Act, 2015 (26 of 2015), more than one prosecution filed by the same payee or holder in due course, as the case may be, against the same drawer of cheques is pending before different courts, upon the said fact having been brought to the notice of the court, such court shall transfer the case to the court having jurisdiction under sub-section (2) of section 142, as amended by the Negotiable Instruments (Amendment) Ordinance, 2015 (Ord. 6 of 2015), before which the first case was filed and is pending, as if that sub-section had been in force at all material times.]

¹[**143. Power of Court to try cases summarily.**—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) all offences under this Chapter shall be tried by a Judicial Magistrate of the first class or by a Metropolitan Magistrate and the provisions of sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trials:

Provided that in the case of any conviction in a summary trial under this section, it shall be lawful for the Magistrate to pass a sentence of imprisonment for a term not exceeding one year and an amount of fine exceeding five thousand rupees:

Provided further that when at the commencement of, or in the course of, a summary trial under this section, it appears to the Magistrate that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Magistrate shall after hearing the parties, record an order to that effect and thereafter recall any witness who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code.

(2) The trial of a case under this section shall, so far as practicable, consistently with the interests of justice, be continued from day to day until its conclusion, unless the Court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded in writing.

(3) Every trial under this section shall be conducted as expeditiously as possible and an endeavour shall be made to conclude the trial within six months from the date of filing of the complaint.

²[**143A. Power to direct interim compensation.**—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Court trying an offence under section 138 may order the drawer of the cheque to pay interim compensation to the complainant—

(a) in a summary trial or a summons case, where he pleads not guilty to the accusation made in the complaint; and

(b) in any other case, upon framing of charge.

(2) The interim compensation under sub-section (1) shall not exceed twenty per cent. of the amount of the cheque.

(3) The interim compensation shall be paid within sixty days from the date of the order under sub-section (1), or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the drawer of the cheque.

(4) If the drawer of the cheque is acquitted, the Court shall direct the complainant to repay to the drawer the amount of interim compensation, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.

1. Ins. by Act 55 of 2002, s. 10 (w.e.f. 6-2-2003).

2. Ins. by Act 20 of 2018, s. 2 (w.e.f. 1-9-2018).

(5) The interim compensation payable under this section may be recovered as if it were a fine under section 421 of the Code of Criminal Procedure, 1973 (2 of 1974).

(6) The amount of fine imposed under section 138 or the amount of compensation awarded under section 357 of the Code of Criminal Procedure, 1973 (2 of 1974), shall be reduced by the amount paid or recovered as interim compensation under this section.]

144. Mode of service of summons.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) and for the purposes of this Chapter, a Magistrate issuing a summons to an accused or a witness may direct a copy of summons to be served at the place where such accused or witness ordinarily resides or carries on business or personally works for gain, by speed post or by such courier services as are approved by a Court of Session.

(2) Where an acknowledgment purporting to be signed by the accused or the witness or an endorsement purported to be made by any person authorised by the postal department or the courier services that the accused or the witness refused to take delivery of summons has been received, the Court issuing the summons may declare that the summons has been duly served.

145. Evidence on affidavit.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the evidence of the complainant may be given by him on affidavit and may, subject to all just exceptions be read in evidence in any enquiry, trial or other proceeding under the said Code.

(2) The Court may, if it thinks fit, and shall, on the application of the prosecution or the accused, summon and examine any person giving evidence on affidavit as to the facts contained therein.

146. Bank's slip prima facie evidence of certain facts.—The Court shall, in respect of every proceeding under this Chapter, on production of Bank's slip or memo having thereon the official mark denoting that the cheque has been dishonoured, presume the fact of dishonour of such cheque, unless and until such fact is disproved.

147. Offences to be compoundable.—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence punishable under this Act shall be compoundable].

¹ [148. Power of Appellate Court to order payment pending appeal against conviction.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), in an appeal by the drawer against conviction under section 138, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of twenty per cent. of the fine or compensation awarded by the trial Court:

Provided that the amount payable under this sub-section shall be in addition to any interim compensation paid by the appellant under section 143A.

(2) The amount referred to in sub-section (1) shall be deposited within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the appellant.

(3) The Appellate Court may direct the release of the amount deposited by the appellant to the complainant at any time during the pendency of the appeal:

Provided that if the appellant is acquitted, the Court shall direct the complainant to repay to the appellant the amount so released, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.]

1. Ins. by Act 20 of 2018, s. 3 (w.e.f. 1-9-2018).

SCHEDULE.—[*Enactments repealed*].—Rep. by the Repealing and Amending Act, 1891
(12 of 1891), s. 2 and Schedule I.

THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

ARRANGEMENT OF SECTIONS

Last updated: 20-9-2021

CHAPTER I

PRELIMINARY

SECTIONS

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

CHAPTER II

ESTABLISHMENT OF THE SECURITIES AND EXCHANGE BOARD OF INDIA

3. Establishment and incorporation of Board.
4. Management of the Board.
5. Term of office and conditions of service of Chairman and members of the Board.
6. Removal of member from office.
7. Meetings.
- 7A. Member not to participate in meetings in certain cases.
8. Vacancies, etc., not to invalidate proceedings of Board.
9. Officers and employees of the Board.

CHAPTER III

TRANSFER OF ASSETS, LIABILITIES, ETC., OF THE EXISTING SECURITIES AND EXCHANGE BOARD TO THE BOARD

10. Transfer of assets, liabilities, etc., of existing Securities and Exchange Board to the Board.

CHAPTER IV

POWERS AND FUNCTIONS OF THE BOARD

11. Functions of Board.
- 11A. Board to regulate or prohibit issue of prospectus, offer document or advertisement soliciting money for issue of securities.
- 11AA. Collective investment scheme.
- 11B. Power to issue directions and levy penalty.
- 11C. Investigation.
- 11D. Cease and desist proceedings.

CHAPTER V

REGISTRATION CERTIFICATE

12. Registration of stock-brokers, sub-brokers, share transfer agents, etc.

CHAPTER VA

PROHIBITION OF MANIPULATIVE AND DECEPTIVE DEVICES, INSIDER TRADING AND SUBSTANTIAL ACQUISITION OF SECURITIES OR CONTROL

- 12A. Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

CHAPTER VI

FINANCE, ACCOUNTS AND AUDIT

SECTIONS

- 13. Grants by the Central Government.
- 14. Fund.
- 15. Accounts and audit.

CHAPTER VIA

PENALTIES AND ADJUDICATION

- 15A. Penalty for failure to furnish information, return, etc.
- 15B. Penalty for failure by any person to enter into agreement with clients.
- 15C. Penalty for failure to redress investors' grievances.
- 15D. Penalty for certain defaults in case of mutual funds.
- 15E. Penalty for failure to observe rules and regulations by an asset management company.
- 15EA. Penalty for default in case of alternative investment funds, infrastructure investment trusts and real estate investment trusts.
- 15EB. Penalty for default in case of investment adviser and research analyst.
- 15F. Penalty for default in case of stock brokers.
- 15G. Penalty for insider trading.
- 15H. Penalty for non-disclosure of acquisition of shares and takeovers.
- 15HA. Penalty for fraudulent and unfair trade practices.
- 15HAA. Penalty for alteration, destruction, etc., of records and failure to protect the electronic database of Board.
- 15HB. Penalty for contravention where no separate penalty has been provided.
- 15-I. Power to adjudicate.
- 15J. Factors to be taken into account while adjudging quantum of penalty.
- 15JA. Crediting sums realised by way of penalties to Consolidated Fund of India.
- 15JB. Settlement of administrative and civil proceedings.

CHAPTER VIB

ESTABLISHMENT, JURISDICTION, AUTHORITY AND PROCEDURE OF APPELLATE TRIBUNAL

- 15K. Establishment of Securities Appellate Tribunals.
- 15L. Composition of Securities Appellate Tribunal.
- 15M. Qualification for appointment as Presiding Officer or Member of Securities Appellate Tribunal.
- 15MA. Amendment of Presiding Officer and Judicial Member.
- 15MB. Search-cum-Selection Committee for appointment of Technical Members.
- 15MC. Vacancy not to invalidate selection proceeding.
- 15N. Tenure of office of Presiding Officer and other Members of Securities Appellate Tribunal.
- 15-O. Salary and allowances and other terms and conditions of service of Presiding Officers.
- 15P. Filling up of vacancies.
- 15PA. Member to act as Presiding Officer in certain circumstances.
- 15Q. Resignation and removal.
- 15QA. Qualifications, terms and conditions of service of Presiding Officer and Member.
- 15R. Orders constituting Appellate Tribunal to be final and not to invalidate its proceedings.
- 15S. Staff of the Securities Appellate Tribunal.
- 15T. Appeal to the Securities Appellate Tribunal.
- 15U. Procedure and powers of the Securities Appellate Tribunal.
- 15V. Right to legal representation.
- 15W. Limitation.

SECTIONS

- 15X. Presiding Officer, Members and staff of Securities Appellate Tribunals to be public servants.
- 15Y. Civil Court not to have jurisdiction.
- 15Z. Appeal to Supreme Court.

CHAPTER VII

MISCELLANEOUS

- 16. Power of Central Government to issue directions.
- 17. Power of Central Government to supersede the Board.
- 18. Returns and reports.
- 19. Delegation.
- 20. Appeals.
- 20A. Bar of jurisdiction
- 21. Savings.
- 22. Members, officers and employees of the Board to be public servants.
- 23. Protection of action taken in good faith.
- 24. Offences.
- 24A. Composition of certain offences.
- 24B. Power to grant immunity.
- 25. Exemption from tax on wealth and income.
- 26. Cognizance of offences by courts.
- 26A. Establishment of Special Courts.
- 26B. Offences triable by Special Courts.
- 26C. Appeal and revision.
- 26D. Application of Code to proceedings before Special Court.
- 26E. Transitional provisions.
- 27. Contravention by companies.
- 28. [*Omitted.*].
- 28A. Recovery of amounts.
- 28B. Continuance of proceedings.
- 28C. Powers of Board not to apply to International Financial Services Centre.
- 29. Power to make rules.
- 30. Power to make regulations.
- 31. Rules and regulations to be laid before Parliament.
- 32. Application of other laws not barred.
- 33. [*Repealed.*].
- 34. Power to remove difficulties.
- 34A. Validation of certain acts.
- 35. Repeal and saving.

THE SCHEDULE. [Repealed.]

THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

ACT NO. 15 OF 1992

[4th April, 1992.]

An Act to provide for the establishment of a Board to protect the interests of investors in securities and to promote the development of, and to regulate, the securities market and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Securities and Exchange Board of India Act, 1992.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 30th day of January, 1992.

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

(a) “Board” means the Securities and Exchange Board of India established under section 3;

(b) “Chairman” means the Chairman of the Board;

¹[(ba) “collective investment scheme” means any scheme or arrangement which satisfies the conditions specified in section 11AA;]

(c) “existing Securities and Exchange Board” means the Securities and Exchange Board of India constituted under the Resolution of the Government of India in the Department of Economic Affairs No. 1(44)SE/86, dated the 12th day of April, 1988;

(d) “Fund” means the Fund constituted under section 14;

²[(da) “Insurance Regulatory and Development Authority” means the Insurance Regulatory and Development Authority of India established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);

(db) “Judicial Member” means a Member of the Securities Appellate Tribunal appointed under sub-section (1) of section 15MA and includes the Presiding Officer;]

(f) “notification” means a notification published in the Official Gazette;

²[(fa) “Pension Fund Regulatory and Development Authority” means the Pension Fund Regulatory and Development Authority established under sub-section (1) of section 3 of the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013);]

(g) “prescribed” means prescribed by rules made under this Act;

(h) “regulations” means the regulations made by the Board under this Act;

³[(ha) “Reserve Bank” means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934);]

(i) “securities” has the meaning assigned to it in section 2 of the Securities Contracts (Regulation) Act, 1956 (41 of 1956).

²[(j) “Technical Member” means a Technical Member appointed under sub-section (1) of section 15MB.]

1. Ins. by Act 31 of 1999, s. 11 (w.e.f. 22-2-2000).

2. Ins. by Act 7 of 2017, s. 146 (w.e.f. 26-4-2017).

3. Ins. by Act 59 of 2002, s. 2 (w.e.f. 29-10-2002).

¹[(2) Words and expressions used and not defined in this Act but defined in ²[the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Depositories Act, 1996 (22 of 1996)] shall have the meanings respectively assigned to them in that Act.]

CHAPTER II

ESTABLISHMENT OF THE SECURITIES AND EXCHANGE BOARD OF INDIA

3. Establishment and incorporation of Board.—(1) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Act, a Board by the name of the Securities and Exchange Board of India.

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

(3) The head office of the Board shall be at Bombay.

(4) The Board may establish offices at other places in India.

4. Management of the Board.—(1) The Board shall consist of the following members, namely:—

(a) a Chairman;

(b) two members from amongst the officials of the ³[Ministry] of the Central Government dealing with Finance ⁴[and administration of the Companies Act, 1956 (1 of 1956)];

(c) one member from amongst the officials of ⁵[the Reserve Bank];

⁶[(d) five other members of whom at least three shall be the whole-time members,]

to be appointed by the Central Government.

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

(3) Save as otherwise determined by regulations, the Chairmen shall also have powers of general superintendence and direction of the affairs of the Board and may also exercise all powers and do all acts and things which may be exercised or done by that Board.

(4) The Chairman and members referred to in clauses (a) and (d) of sub-section (1) shall be appointed by the Central Government and the members referred to in clauses (b) and (c) of that sub-section shall be nominated by the Central Government and the ⁷[Reserve Bank] respectively.

(5) The Chairman and the other members referred to in clauses (a) and (d) of sub-section (1) shall be persons of ability, integrity and standing who have shown capacity in dealing with problems relating to securities market or have special knowledge or experience of law, finance, economics, accountancy, administration or in any other discipline which, in the opinion of the Central Government, shall be useful to the Board.

5. Term of office and conditions of service of Chairman and members of the Board.—(1) The term of office and other conditions of service of the Chairman and the members referred to in clause (d) of sub-section (1) of section 4 shall be such as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), the Central Government shall have the right to terminate the services of the Chairman or a member appointed under clause (d) of sub-section (1)

1. Subs. by Act 9 of 1995, s. 2, for sub-section (2) (w.e.f. 25-1-1995).

2. Subs. by Act 22 of 1996, s. 30 and the Schedule, for “the Securities Contracts (Regulation) Act, 1956 (42 of 1956)” (w.e.f. 20-9-1995).

3. Subs. by Act 59 of 2002, s. 3, for “Ministries” (w.e.f. 29-10-2002).

4. Subs. by s. 3, *ibid.*, for “and Law” (w.e.f. 29-10-2002).

5. Subs. by s. 3, *ibid.*, for “the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934)” (w.e.f. 29-10-2002).

6. Subs. by s. 3, *ibid.*, for clause (d) (w.e.f. 29-10-2002).

7. Subs. by s. 3, *ibid.*, for “Reserve Bank of India” (w.e.f. 29-10-2002).

of section 4, at any time before the expiry of the period prescribed under sub-section (1), by giving him notice of not less than three months in writing or three months' salary and allowances in lieu thereof, and the Chairman or a member, as the case may be, shall also have the right to relinquish his office, at any time before the expiry of the period prescribed under sub-section (1), by giving to the Central Government notice of not less than three months in writing.

6. Removal of member from office.—^{1***} The Central Government shall remove a member from office if he—

- (a) is, or at any time has been, adjudicated as insolvent;
- (b) is of unsound mind and stands so declared by a competent court;
- (c) has been convicted of an offence which, in the opinion of the Central Government, involves a moral turpitude;

2*

*

*

*

*

(e) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest:

Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

7. Meetings.—(1) The Board shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be provided by regulation.

(2) The Chairman or, if for any reason, he is unable to attend a meeting of the Board, any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

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

³[7A. Member not to participate in meetings in certain cases.]—Any member, who is a director of a company and who as such director has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board, shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Board, and the member shall not take any part in any deliberation or decision of the Board with respect to that matter.]

8. Vacancies, etc., not to invalidate proceedings of Board.—No act or proceeding of the Board shall be invalid merely by reason of—

- (a) any vacancy in, or any defect in the constitution of, the Board; or
- (b) any defect in the appointment of a person acting as a member of the Board; or
- (c) any irregularity in the procedure of the Board not affecting the merits of the case.

9. Officers and employees of the Board.—(1) The Board may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The term and other conditions of service of officers and employees of the Board appointed under sub-section (1) shall be such as may be determined by regulations.

1. The brackets and figure "(1)" omitted by Act 9 of 1995, s. 3 (w.e.f. 25-1-1995).

2. Clause (d) omitted by Act 9 of 1995, s. 3 (w.e.f. 25-1-1995).

3. Ins. by s. 4, *ibid.* (w.e.f. 25-1-1995).

CHAPTER III

TRANSFER OF ASSETS, LIABILITIES, ETC., OF THE EXISTING SECURITIES AND EXCHANGE BOARD TO THE BOARD

10. Transfer of assets, liabilities, etc., of existing Securities and Exchange Board to the Board.—

(1) On and from the date of establishment of the Board,—

(a) any reference to the existing Securities and Exchange Board in any law other than this Act or in any contract or other instrument shall be deemed as a reference to the Board;

(b) all properties and assets, movable and immovable, of, or belonging to, the existing Securities and Exchange Board, shall vest in the Board;

(c) all rights and liabilities of the existing Securities and Exchange Board shall be transferred to, and be the rights and liabilities of, the Board;

(d) without prejudice to the provisions of clause (c), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the existing Securities and Exchange Board immediately before that date, for or in connection with the purpose of the said existing Board shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the Board;

(e) all sums of money due to the existing Securities and Exchange Board immediately before that date shall be deemed to be due to the Board;

(f) all suits and other legal proceedings instituted or which could have been instituted by or against the existing Securities and Exchange Board immediately before that date may be continued or may be instituted by or against the Board; and

(g) every employee holding any office under the existing Securities and Exchange Board immediately before that date shall hold his office in the Board by the same tenure and upon the same terms and conditions of service as respects remuneration, leave, provident fund, retirement and other terminal benefits as he would have held such office if the Board had not been established and shall continue to do so as an employee of the Board or until the expiry of the period of six months from that date if such employee opts not to be the employee of the Board within such period.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), or in any other law for the time being in force, absorption of any employee by the Board in its regular service under this section shall not entitle 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.

CHAPTER IV

POWERS AND FUNCTIONS OF THE BOARD

11. Functions of Board.—(1) Subject to the provisions of this Act, it shall be the duty of the Board to protect the interests of investors in securities and to promote the development of, and to regulate the securities market, by such measures as it thinks fit.

(2) Without prejudice to the generality of the foregoing provisions, the measures referred to therein may provide for—

(a) regulating the business in stock exchanges and any other securities markets;

(b) registering and regulating the working of stock brokers, sub-brokers, share transfer agents, bankers to an issue, trustees of trust deeds, registrars to an issue, merchant bankers, underwriters, portfolio managers, investment advisers and such other intermediaries who may be associated with securities markets in any manner;

¹[(ba) registering and regulating the working of the ²[depositories, participants, custodians] of securities, foreign institutional investors, credit rating agencies and such other intermediaries as the Board may, by notification, specify in this behalf;]

1. Ins. by Act 9 of 1995, s. 5 (w.e.f. 25-1-1995).

2. Subs. by Act 22 of 1996, s. 30 and the Schedule, for “depositories, custodians” (w.e.f. 20-9-1995).

(c) registering and regulating the working of ¹[venture capital funds and collective investment schemes], including mutual funds;

(d) promoting and regulating self-regulatory organisations;

(e) prohibiting fraudulent and unfair trade practices relating to securities markets;

(f) promoting investors' education and training of intermediaries of securities markets;

(g) prohibiting insider trading in securities;

(h) regulating substantial acquisition of shares and take-over of companies;

(i) calling for information from, undertaking inspection, conducting inquiries and audits of the ²[stock exchanges, mutual funds, other persons associated with the securities market] intermediaries and self-regulatory organisations in the securities market;

³[(ia) calling for information and records from any person including any bank or any other authority or board or corporation established or constituted by or under any Central or State Act which, in the opinion of the Board, shall be relevant to any investigation or inquiry by the Board in respect of any transaction in securities;]

⁴[(ib) calling for information from, or furnishing information to, other authorities, whether in India or outside India, having functions similar to those of the Board, in the matters relating to the prevention or detection of violations in respect of securities laws, subject to the provisions of other laws for the time being in force in this regard:

Provided that the Board, for the purpose of furnishing any information to any authority outside India, may enter into an arrangement or agreement or understanding with such authority with the prior approval of the Central Government;]

(j) performing such functions and exercising such powers under the provisions of ^{5***} the Securities Contracts (Regulation) Act, 1956 (42 of 1956), as may be delegated to it by the Central Government;

(k) levying fees or other charges for carrying out the purposes of this section;

(l) conducting research for the above purposes;

⁶[(la) calling from or furnishing to any such agencies, as may be specified by the Board, such information as may be considered necessary by it for the efficient discharge of its functions;]

(m) performing such other functions as may be prescribed.

⁷[(2A) Without prejudice to the provisions contained in sub-section (2), the Board may take measures to undertake inspection of any book, or register, or other document or record of any listed public company or a public company (not being intermediaries referred to in section 12) which intends to get its securities listed on any recognised stock exchange where the Board has reasonable grounds to believe that such company has been indulging in insider trading or fraudulent and unfair trade practices relating to securities market.]

⁸[(3) Notwithstanding anything contained in any other law for the time being in force while exercising the powers under ⁹[clause (i) or clause (ia) of sub-section (2) or sub-section (2A)], the Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit, in respect of the following matters, namely:—

(i) the discovery and production of books of account and other documents, at such place and such time as may be specified by the Board;

1. Subs. by Act 9 of 1995, s. 5, for "collective investment schemes" (w.e.f. 25-1-1995).

2. Subs. by s. 5, *ibid.*, for "stock exchanges and" (w.e.f. 25-1-1995).

3. Subs. by Act 27 of 2014, s. 2, for clause (ia) (w.e.f. 18-7-2013).

4. Ins. by s. 2, *ibid.* (w.e.f. 6-3-1998).

5. The words, brackets and figures "the Capital Issues (Control) Act, 1947 (29 of 1947) and" omitted by Act 9 of 1995, s. 5 (w.e.f. 25-1-1995).

6. Ins. by s. 5, *ibid.* (w.e.f. 25-1-1995).

7. Ins. by Act 59 of 2002, s. 4 (w.e.f. 29-10-2002).

8. Ins. by Act 9 of 1995, s. 5 (w.e.f. 25-1-1995).

9. Subs. by Act 59 of 2002, s. 4, for "clause (i) of sub-section (2)" (w.e.f. 29-10-2002).

(ii) summoning and enforcing the attendance of persons and examining them on oath;

(iii) inspection of any books, registers and other documents of any person referred to in section 12, at any place;]

¹[(iv) inspection of any book, or register, or other document or record of the company referred to in sub-section (2A);

(v) issuing commissions for the examination of witnesses or documents.]

¹[(4) Without prejudice to the provisions contained in sub-sections (1), (2), (2A) and (3) and section 11B, the Board may, by an order, for reasons to be recorded in writing, in the interests of investors or securities market, take any of the following measures, either pending investigation or inquiry or on completion of such investigation or inquiry, namely:—

(a) suspend the trading of any security in a recognised stock exchange;

(b) restrain persons from accessing the securities market and prohibit any person associated with securities market to buy, sell or deal in securities;

(c) suspend any office-bearer of any stock exchange or self-regulatory organisation from holding such position;

(d) impound and retain the proceeds or securities in respect of any transaction which is under investigation;

²[(e) attach, for a period not exceeding ninety days, bank accounts or other property of any intermediary or any person associated with the securities market in any manner involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder:

Provided that the Board shall, within ninety days of the said attachment, obtain confirmation of the said attachment from the Special Court, established under section 26A, having jurisdiction and on such confirmation, such attachment shall continue during the pendency of the aforesaid proceedings and on conclusion of the said proceedings, the provisions of section 28A shall apply:

Provided further that only property, bank account or accounts or any transaction entered therein, so far as if related to the proceeds actually involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder shall be allowed to be attached.]

(f) direct any intermediary or any person associated with the securities market in any manner not to dispose of or alienate an asset forming part of any transaction which is under investigation:

Provided that the Board may, without prejudice to the provisions contained in sub-section (2) or sub-section (2A), take any of the measures specified in clause (d) or clause (e) or clause (f), in respect of any listed public company or a public company (not being intermediaries referred to in section (2) which intends to get its securities listed on any recognised stock exchange where the Board has reasonable grounds to believe that such company has been indulging in insider trading or fraudulent and unfair trade practices relating to securities market:

Provided further that the Board shall, either before or after passing such orders, give an opportunity of hearing to such intermediaries or persons concerned.]

³[(4A) Without prejudice to the provisions contained in sub-sections (1), (2), (2A), (3) and (4), section 11B and section 15-I, the Board may, by an order, for reasons to be recorded in writing, levy penalty under sections 15A, 15B, 15C, 15D, 15E, 15EA, 15EB, 15F, 15G, 15H, 15HA and 15HB after holding an inquiry in the prescribed manner.]

⁴[(5) The amount disgorged, pursuant to a direction issued, under section 11B of this Act or section 12A of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or section 19 of the Depositories Act, 1996 (22 of 1996), ²[or under a settlement made under section 15JB or section 23JA of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or section 19-IA of the Depositories Act, 1996 (22 of 1996)] as the case may be, shall be credited to the Investor Protection and Education Fund established by the Board and such amount shall be utilised by the Board in accordance with the regulations made under this Act.]

⁵[⁶11A. **Board to regulate or prohibit issue of prospectus, offer document or advertisement soliciting money for issue of securities.**—(1) Without prejudice to the provisions of the Companies Act, 1956 (1 of 1956), the Board may, for the protection of investors,—

(a) specify, by regulations—

1. Ins. by Act 59 of 2002, s. 4 (w.e.f. 29-10-2002).

2. Subs. by Act 21 of 2019, s. 42 and the Second Schedule, for clause (e) (w.e.f. 21-2-2019).

3. Ins. by Act 13 of 2018, s. 179 (w.e.f. 8-3-2019).

4. Ins. by Act 27 of 2014, s. 2 (w.e.f. 18-7-2013).

5. Ins. by Act 9 of 1995, s. 6 (w.e.f. 25-1-1995).

6. Subs. by Act 59 of 2002, s. 5, for section 11A (w.e.f. 29-10-2002).

(i) the matters relating to issue of capital, transfer of securities and other matters incidental thereto; and

(ii) the manner in which such matters shall be disclosed by the companies;

(b) by general or special orders—

(i) prohibit any company from issuing prospectus, any offer document, or advertisement soliciting money from the public for the issue of securities;

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

(2) Without prejudice to the provisions of section 21 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Board may specify the requirements for listing and transfer of securities and other matters incidental thereto.]

¹[**11AA. Collective investment scheme.**—(1) Any scheme or arrangement which satisfies the conditions referred to in sub-section (2)²[or sub-section (2A)] shall be a collective investment scheme:

²[Provided that any pooling of funds under any scheme or arrangement, which is not registered with the Board or is not covered under sub-section (3), involving a corpus amount of one hundred crore rupees or more shall be deemed to be a collective investment scheme.]

(2) Any scheme or arrangement made or offered by any ³[person] under which,—

(i) the contributions, or payments made by the investors, by whatever name called, are pooled and utilized for the purposes of the scheme or arrangement;

(ii) the contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property, whether movable or immovable, from such scheme or arrangement;

(iii) the property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors;

(iv) the investors do not have day-to-day control over the management and operation of the scheme or arrangement.

²[(2A) Any scheme or arrangement made or offered by any person satisfying the conditions as may be specified in accordance with the regulations made under this Act.]

(3) Notwithstanding anything contained in sub-section (2)²[or sub-section (2A)], any scheme or arrangement—

(i) made or offered by a cooperative society registered under the Co-operative Societies Act, 1912 (2 of 1912) or a society being a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State;

(ii) under which deposits are accepted by non-banking financial companies as defined in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);

(iii) being a contract of insurance to which the Insurance Act, 1938 (4 of 1938), applies;

(iv) providing for any scheme, pension scheme or the insurance scheme framed under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952);

(v) under which deposits are accepted under section 58A of the Companies Act, 1956 (1 of 1956);

(vi) under which deposits are accepted by a company declared as a *Nidhi* or a Mutual Benefit Society under section 620A of the Companies Act, 1956 (1 of 1956);

(vii) falling within the meaning of chit business as defined in clause (e) of section 2 of the Chit Funds Act, 1982 (40 of 1982);

1. Ins. by Act 31 of 1999, s. 11 (w.e.f. 22-2-2000).

2. Ins. by Act 27 of 2014, s. 3 (w.e.f. 18-7-2013).

3. Subs. by s. 3, *ibid.*, for "company" (w.e.f. 18-7-2013).

(viii) under which contributions made are in the nature of subscription to a mutual fund;

¹[(ix) such other scheme or arrangement which the Central Government may, in consultation with the Board, notify.]

shall not be a collective investment scheme.]

11B. Power to issue directions²[and a levy penalty].—³[(I)] Save as otherwise provided in section 11, if after making or causing to be made an enquiry, the Board is satisfied that it is necessary—

(i) in the interest of investors, or orderly development of securities market; or

(ii) to prevent the affairs of any intermediary or other persons referred to in section 12 being conducted in a manner detrimental to the interests of investors or securities market; or

(iii) to secure the proper management of any such intermediary or person,

it may issue such directions,—

(a) to any person or class of persons referred to in section 12, or associated with the securities market; or

(b) to any company in respect of matters specified in section 11A,

as may be appropriate in the interests of investors in securities and the securities market.]

⁴[Explanation.—For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]

⁵[(2) Without prejudice to the provisions contained in sub-section (I), sub-section (4A) of section 11 and section 15-I, the Board may, by an order, for reasons to be recorded in writing, levy penalty under sections 15A, 15B, 15C, 15D, 15E, 15EA, 15EB, 15F, 15G, 15H, 15HA and 15HB after holding an inquiry in the prescribed manner.]

⁶[**11C. Investigation.**—(1) Where the Board has reasonable ground to believe that—

(a) the transactions in securities are being dealt with in a manner detrimental to the investors or the securities market; or

(b) any intermediary or any person associated with the securities market has violated any of the provisions of this Act or the rules or the regulations made or directions issued by the Board thereunder,

it may, at any time by order in writing, direct any person (hereafter in this section referred to as the Investigating Authority) specified in the order to investigate the affairs of such intermediary or persons associated with the securities market and to report thereon to the Board.

(2) Without prejudice to the provisions of sections 235 to 241 of the Companies Act, 1956 (1 of 1956), it shall be the duty of every manager, managing director, officer and other employee of the company and every intermediary referred to in section 12 or every person associated with the securities market to preserve and to produce to the Investigating Authority or any person authorised by it in this behalf, all the books, registers, other documents and record of, or relating to, the company or, as the case may be, of or relating to, the intermediary or such person, which are in their custody or power.

(3) The Investigating Authority may require any intermediary or any person associated with securities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before it or any person authorised by it in this behalf as it may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation.

(4) The Investigating Authority may keep in its custody any books, registers, other documents and record produced under sub-section (2) or sub-section (3) for six months and thereafter shall return the same to any intermediary or any person associated with securities market by whom or on whose behalf the books, registers, other documents and record are produced:

1. Ins. by Act 27 of 2014, s. 3 (w.e.f. 18-7-2013).

2. Ins. by Act 13 of 2018, s. 180 (w.e.f. 8-3-2019).

3. Section 11B renumbered as sub-section (I) thereof by s. 180, *ibid.* (w.e.f. 8-3-2019).

4. Ins. by Act 27 of 2014, s. 4 (w.e.f. 18-7-2013).

5. Ins. by Act 13 of 2018, s. 180 (w.e.f. 8-3-2019).

6. Ins. by Act 59 of 2002, s. 6 (w.e.f. 29-10-2002).

Provided that the Investigating Authority may call for any book, register, other document and record if they are needed again:

Provided further that if the person on whose behalf the books, registers, other documents and record are produced requires certified copies of the books, registers, other documents and record produced before the Investigating Authority, it shall give certified copies of such books, registers, other documents and record to such person or on whose behalf the books, registers, other documents and record were produced.

(5) Any person, directed to make an investigation under sub-section (1), may examine on oath, any manager, managing director, officer and other employee of any intermediary or any person associated with securities market in any manner, in relation to the affairs of his business and may administer an oath accordingly and for that purpose may require any of those persons to appear before it personally.

(6) If any person fails without reasonable cause or refuses—

(a) to produce to the Investigating Authority or any person authorised by it in this behalf any book, register, other document and record which is his duty under sub-section (2) or sub-section (3) to produce; or

(b) to furnish any information which is his duty under sub-section (3) to furnish; or

(c) to appear before the Investigating Authority personally when required to do so under sub-section (5) or to answer any question which is put to him by the Investigating Authority in pursuance of that sub-section; or

(d) to sign the notes of any examination referred to in sub-section (7),

he shall be punishable with imprisonment for a term which may extend to one year, or with fine, which may extend to one crore rupees, or with both, and also with a further fine which may extend to five lakh rupees for every day after the first during which the failure or refusal continues.

(7) Notes of any examination under sub-section (5) shall be taken down in writing and shall be read over to, or by, and signed by, the person examined, and may thereafter be used in evidence against him.

(8) Where in the course of investigation, the Investigating Authority has reasonable ground to believe that the books, registers, other documents and record of, or relating to, any intermediary or any person associated with securities market in any manner, may be destroyed, mutilated, altered, falsified or secreted, the Investigating Authority may make an application to ¹[the Magistrate or Judge of such designated court in Mumbai, as may be notified by the Central Government] for an order for the seizure of such books, registers, other documents and record.

²[(8A) The authorised officer may requisition the services of any police officer or any officer of the Central Government, or of both, to assist him for all or any of the purposes specified in sub-section (8) and it shall be the duty of every such officer to comply with such requisition.]

(9) After considering the application and hearing the Investigating Authority, if necessary, ³[the Magistrate or Judge of the Designated Court] may, by order, authorise the Investigating Authority—

(a) to enter, with such assistance, as may be required, the place or places where such books, registers, other documents and record are kept;

(b) to search that place or those places in the manner specified in the order; and

(c) to seize books, registers, other documents and record, it considers necessary for the purposes of the investigation:

Provided that ³[the Magistrate or Judge of the Designated Court] shall not authorise seizure of books, registers, other documents and record, of any listed public company or a public company (not being the intermediaries specified under section 12) which intends to get its securities listed on any recognised stock exchange unless such company indulges in insider trading or market manipulation.

(10) The Investigating Authority shall keep in its custody the books, registers, other documents and record seized under this section for such period not later than the conclusion of the investigation as it

1. Subs. by Act 27 of 2014, s. 5, for “the Judicial Magistrate of the first class having jurisdiction” (w.e.f. 18-7-2013).

2. Ins. by s. 5, *ibid.* (w.e.f. 28-3-2014).

3. Subs. by s. 5, *ibid.*, for “the Magistrate” (w.e.f. 18-7-2013).

considers necessary and thereafter shall return the same to the company or the other body corporate, or, as the case may be, to the managing director or the manager or any other person, from whose custody or power they were seized and inform ¹[the Magistrate or Judge of the Designated Court] of such return:

Provided that the Investigating Authority may, before returning such books, registers, other documents and record as aforesaid, place identification marks on them or any part thereof.

(11) Save as otherwise provided in this section, every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to searches or seizures made under that Code.

11D. Cease and desist proceedings.—If the Board finds, after causing an inquiry to be made, that any person has violated, or is likely to violate, any provisions of this Act, or any rules or regulations made thereunder, it may pass an order requiring such person to cease and desist from committing or causing such violation:

Provided that the Board shall not pass such order in respect of any listed public company or a public company (other than the intermediaries specified under section 12) which intends to get its securities listed on any recognised stock exchange unless the Board has reasonable grounds to believe that such company has indulged in insider trading or market manipulation.]

CHAPTER V

REGISTRATION CERTIFICATE

12. Registration of stock-brokers, sub-brokers, share transfer agents, etc.—(1) No stock-broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the ²[regulations] made under this Act:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a stock-broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market immediately before the establishment of the Board for which no registration certificate was necessary prior to such establishment, may continue to do so for a period of three months from such establishment or, if he has made an application for such registration within the said period of three months, till the disposal of such application:

³[Provided further that any certificate of registration, obtained immediately before the commencement of the Securities Laws (Amendment) Act, 1995 (9 of 1995), shall be deemed to have been obtained from the Board in accordance with the regulations providing for such registration.]

³[(1A) No ⁴[depository, participant, custodian] of securities, foreign institutional investor, credit rating agency or any other intermediary associated with the securities market as the Board may by notification in this behalf specify, shall buy or sell or deal in securities except under and in accordance with the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a ⁴[depository, participant, custodian] of securities, foreign institutional investor or credit rating agency immediately before the commencement of the Securities Laws (Amendment) Act, 1995 (9 of 1995), for which no certificate of registration was required prior to such commencement, may continue to buy or sell securities or otherwise deal with the securities market until such time regulations are made under clause (d) of sub-section (2) of section 30.

(1B) No person shall sponsor or cause to be sponsored or carry on or cause to be carried on any venture capital funds or collective investment scheme including mutual funds, unless he obtains a certificate of registration from the Board in accordance with the regulations:

Provided that any person sponsoring or causing to be sponsored, carrying or causing to be carried on any venture capital funds or collective investment scheme operating in the securities market immediately

1. Subs. by Act 27 of 2014, s. 5, for “the Judicial Magistrate of the first class having jurisdiction” (w.e.f. 18-7-2013).

2. Subs. by Act 9 of 1995, s. 7, for “rules” (w.e.f. 25-1-1995).

3. Ins. by s. 7, *ibid.* (w.e.f. 25-1-1995).

4. Subs. by Act 22 of 1996, s. 30 and the Schedule, for “depository, custodian” (w.e.f. 20-9-1995).

before the commencement of the Securities Laws (Amendment) Act, 1995 (9 of 1995) for which no certificate of registration was required prior to such commencement, may continue to operate till such time regulations are made under clause (d) of sub-section (2) of section 30.]

¹[(C) No person shall sponsor or cause to be sponsored or carry on or cause to be carried on the activity of an alternative investment fund or a business trust as defined in clause (13A) of section 2 of the Income-tax Act, 1961 (43 of 1961), unless a certificate or registration is granted by the Board in accordance with the regulations made under this Act.]

²[Explanation.—For the removal of doubts, it is hereby declared that, for the purposes of this section, a collective investment scheme or mutual fund shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment besides the component of insurance issued by an insurer.]

(2) Every application for registration shall be in such manner and on payment of such fees as may be determined by regulations.

(3) The Board may, by order, suspend or cancel a certificate of registration in such manner as may be determined by regulations:

Provided that no order under this sub-section shall be made unless the person concerned has been given a reasonable opportunity of being heard.

³[CHAPTER VA

PROHIBITION OF MANIPULATIVE AND DECEPTIVE DEVICES, INSIDER TRADING AND SUBSTANTIAL ACQUISITION OF SECURITIES OR CONTROL

12A. Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.—No person shall directly or indirectly—

(a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognised stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(d) engage in insider trading;

(e) deal in securities while in possession of material or non-public information or communicate such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(f) acquire control of any company or securities more than the percentage of equity share capital of a company whose securities are listed or proposed to be listed on a recognised stock exchange in contravention of the regulations made under this Act.]

CHAPTER VI

FINANCE, ACCOUNTS AND AUDIT

13. Grants by the Central Government.—The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Board grants of such sums of money as that Government may think fit for being utilised for the purposes of this Act.

14. Fund.—(1) There shall be constituted a Fund to be called the Securities and Exchange Board of India General Fund and there shall be credited thereto—

(a) all grants, fees and charges received by the Board under this Act; ^{4***}

5*

*

*

*

*

1. Ins. by Act 13 of 2021, s. 159 (w.e.f. 1-4-2021).

2. Ins. by Act 26 of 2010, s. 4 (w.e.f. 9-4-2010).

3. Ins. by Act 59 of 2002, s. 7 (w.e.f. 29-10-2002).

4. The word “and” omitted by Act 9 of 1995, s. 8 (w.e.f. 25-1-1995).

5. Clause (aa) omitted by Act 59 of 2002, s. 8 (w.e.f. 29-10-2002).

- (b) all sums received by the Board from such other sources as may be decided upon by the Central Government.
- (2) The Fund shall be applied for meeting—

(a) the salaries, allowances and other remuneration of the members, officers and other employees of the Board;

(b) the expenses of the Board in the discharge of its functions under section 11;

(c) the expenses on objects and for purposes authorised by this Act.

15. Accounts and audit.—(1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally 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 Board.

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

¹[CHAPTER VIA

PENALTIES AND ADJUDICATION

15A. Penalty for failure to furnish information, return, etc.—If any person, who is required under this Act or any rules or regulations made thereunder,—

(a) to furnish any document, return or report to the Board, fails to furnish the same,²[or who furnishes or files false, incorrect or incomplete information, return, report, books or other documents] he shall be liable to³[a penalty⁴[which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees]];

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations²[or who furnishes or files false, incorrect or incomplete information, return, report, books or other documents], he shall be liable to⁵[a penalty³[which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees]];

(c) to maintain books of account or records, fails to maintain the same, he shall be liable to⁶[a penalty³[which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees]].

15B. Penalty for failure by any person to enter into agreement with clients.—If any person, who is registered as an intermediary and is required under this Act or any rules or regulations made thereunder to enter into an agreement with his client, fails to enter into such agreement, he shall be liable to⁷[a

1. Ins. by Act 9 of 1995, s. 9 (w.e.f. 25-1-1995).

2. Ins. by Act 13 of 2018, s. 181 (w.e.f. 8-3-2019).

3. Subs. by Act 59 of 2002, s. 9, for “a penalty not exceeding one lakh and fifty thousand rupees for each such failure” (w.e.f. 29-10-2002).

4. Subs. by Act 27 of 2014, s. 6, for certain words (w.e.f. 8-9-2014).

5. Subs. by Act 59 of 2002, s. 9, for “a penalty not exceeding five thousand rupees for every day during which such failure continues” (w.e.f. 29-10-2002).

6. Subs. by s. 9, *ibid.*, for “a penalty not exceeding ten thousand rupees for every day during which such failure continues” (w.e.f. 29-10-2002).

7. Subs. by s. 10, *ibid.*, for “a penalty not exceeding five lakh rupees for every such failure” (w.e.f. 29-10-2002).

penalty ¹[which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees]].

²[15C. Penalty for failure to redress investors' grievances.]—If any listed company or any person who is registered as an intermediary, after having been called upon by the Board in writing ³[including by any means of electronic communication], to redress the grievances of investors, fails to redress such grievances within the time specified by the Board, such company or intermediary shall be liable to a penalty ⁴[which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees].]

15D. Penalty for certain defaults in case of mutual funds.—If any person, who is—

(a) required under this Act or any rules or regulations made thereunder to obtain a certificate of registration from the Board for sponsoring or carrying on any collective investment scheme, including mutual funds, sponsors or carries on any collective investment scheme, including mutual funds, without obtaining such certificate of registration, he shall be liable to ⁵[a penalty ⁶[which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which he sponsors or carries on any such collective investment scheme including mutual funds subject to a maximum of one crore rupees]];

(b) registered with the Board as a collective investment scheme, including mutual funds, for sponsoring or carrying on any investment scheme, fails to comply with the terms and conditions of certificate of registration, he shall be liable to ⁷[a penalty ⁸[which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees]];

(c) registered with the Board as a collective investment scheme including mutual funds, fails to make an application for listing of its schemes as provided for in the regulations governing such listing, he shall be liable to ⁹[a penalty ⁷[which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees]];

(d) registered as a collective investment scheme, including mutual funds, fails to despatch unit certificates of any scheme in the manner provided in the regulation governing such despatch, he shall be liable to ¹⁰[a penalty ⁷[which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees]];

(e) registered as collective investment scheme, including mutual funds, fails to refund the application monies paid by the investors within the period specified in the regulations, he shall be liable to ¹¹[a penalty ⁷[which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees]];

(f) registered as a collective investment scheme, including mutual funds, fails to invest money collected by such collective investment schemes in the manner or within the period specified in the regulations, he shall be liable to ¹²[a penalty ⁷[which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees]].

1. Subs. by Act 27 of 2014, s. 7, for certain words (w.e.f.8-9-2014).

2. Subs. by Act 59 of 2002, s. 11, for section 15C (w.e.f. 29-10-2002).

3. Ins. by Act 23 of 2019, s. 183 (w.e.f. 20-1-2020).

4. Subs. by Act 27 of 2014, s. 8, for certain words (w.e.f. 8-9-2014).

5. Subs. by Act 59 of 2002, s. 12, for "a penalty not exceeding ten thousand rupees for each day during which he carries on any such collective investment scheme including mutual funds, or ten lakh rupees, whichever is higher" (w.e.f. 29-10-2002).

6. Subs. by Act 27 of 2014, s. 9, for certain words (w.e.f. 8-9-2014).

7. Subs. by Act 59 of 2002, s. 12, for "a penalty not exceeding ten thousand rupees for each day during which such failure continues or ten lakh rupees, whichever is higher" (w.e.f. 29-10-2002).

8. Subs. by Act 27 of 2014, s. 9, for certain words (w.e.f.8-9-2014).

9. Subs. by Act 59 of 2002, s. 12, for "a penalty not exceeding five thousand rupees for each day during which such failure continues or five lakh rupees, whichever is higher" (w.e.f. 29-10-2002).

10. Subs. by s. 12, *ibid.*, for "a penalty not exceeding five thousand rupees for each day during which such failure continues" (w.e.f. 29-10-2002).

11. Subs. by s. 12, *ibid.*, for "a penalty not exceeding one thousand rupees for each day during which such failure continue" (w.e.f. 29-10-2002).

12. Subs. by s. 12, *ibid.*, for "a penalty not exceeding five lakh rupees for each such failure" (w.e.f. 29-10-2002).

15E. Penalty for failure to observe rules and regulations by an asset management company.—

Where any asset management company of a mutual fund registered under this Act fails to comply with any of the regulations providing for restrictions on the activities of the asset management companies, such asset management company shall be liable to ¹[a penalty ²[which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees]].

³[15EA. Penalty for default in case of alternative investment funds, infrastructure investment trusts and real estate investment trusts.]—Where any person fails to comply with the regulations made by the Board in respect of alternative investment funds, infrastructure investment trusts and real estate investment trusts or fails to comply with the directions issued by the Board, such person shall be liable to penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees or three times the amount of gains made out of such failure, whichever is higher.

15EB. Penalty for default in case of investment adviser and research analyst.—Where an investment adviser or a research analyst fails to comply with the regulations made by the Board or directions issued by the Board, such investment adviser or research analyst shall be liable to penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.]

15F. Penalty for default in case of stock brokers.—If any person, who is registered as a stock broker under this Act,—

(a) fails to issue contract notes in the form and manner specified by the stock exchange of which such broker is a member, he shall be liable to ⁴[a penalty which shall not be less than one lakh rupees but which may extend to ⁵[one crore rupees]] for which the contract note was required to be issued by that broker;

(b) fails to deliver any security or fails to make payment of the amount due to the investor in the manner within the period specified in the regulations, he shall be liable to ⁶[a penalty

⁷[which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which ⁸[such failure continues] subject to a maximum of one crore rupees]];

(c) charges an amount of brokerage which is in excess of the brokerage specified in the regulations, he shall be liable to ⁹[a penalty ¹⁰[[which shall not be less than one lakh rupees but which may extend to five times the amount of brokerage]] charged in excess of the specified brokerage, whichever is higher.

15G. Penalty for insider trading.—If any insider who,—

(i) either on his own behalf or on behalf of any other person, deals in securities of a body corporate listed on any stock exchange on the basis of any unpublished price sensitive information; or

(ii) communicates any unpublished price sensitive information to any person, with or without his request for such information except as required in the ordinary course of business or under any law; or

(iii) counsels, or procures for any other person to deal in any securities of any body corporate on the basis of unpublished price sensitive information,

shall be liable to a penalty ¹¹[which shall not be less than ten lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is higher].

1. Subs. by Act 59 of 2002, s. 13, for “a penalty not exceeding five lakh rupees for each such failure” (w.e.f. 29-10-2002).

2. Subs. by Act 27 of 2014, s. 10, for certain words (w.e.f.8-9-2014).

3. Ins. by Act 13 of 2018, s. 182 (w.e.f. 8-3-2019).

4. Subs. by Act 27 of 2014, s. 11, for “a penalty not exceeding five times the amount” (w.e.f. 8-9-2014).

5. Ins. by Act 23 of 2019, s. 184 (w.e.f. 20-1-2020).

6. Subs. by Act 59 of 2002, s. 14, for “a penalty not exceeding five thousand rupees for each day during which such failure continues” (w.e.f. 29-10-2002).

7. Subs. by Act 27 of 2014, s. 11, for certain words (w.e.f.8-9-2014).

8. Subs. by Act 13 of 2018, s. 183, for “he sponsors or carries on any such collective investment scheme including mutual funds” (w.e.f. 8-3-2019).

9. Subs. by Act 59 of 2002, s. 14, for “a penalty not exceeding five thousand rupees” (w.e.f. 29-10-2002).

10. Subs. by Act 27 of 2014, s. 11, for “of one lakh rupees or five times the amount of brokerage” (w.e.f.8-9-2014).

11. Subs. by s. 12, *ibid.*, for certain words (w.e.f.8-2-2014).

15H. Penalty for non-disclosure of acquisition of shares and takeovers.—If any person, who is required under this Act or any rules or regulations made thereunder, fails to—

- (i) disclose the aggregate of his share holding in the body corporate before he acquires any shares of that body corporate; or
- (ii) make a public announcement to acquire shares at a minimum price;
- ¹[(iii) make a public offer by sending letter of offer to the shareholders of the concerned company; or
- (iv) make payment of consideration to the shareholders who sold their shares pursuant to letter of offer,]

he shall be liable to a penalty ²[which shall not be less than ten lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher].

³[15HA. Penalty for fraudulent and unfair trade practices.]—If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty ⁴[which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher].

⁵[15HAA. Penalty for alteration, destruction, etc., of records and failure to protect the electronic database of Board.]—Any person, who—

- (a) knowingly alters, destroys, mutilates, conceals, falsifies, or makes a false entry in any information, record, document (including electronic records), which is required under this Act or any rules or regulations made there under, so as to impede, obstruct, or influence the investigation, inquiry, audit, inspection or proper administration of any matter within the jurisdiction of the Board.

Explanation.—For the purposes of this clause, a person shall be deemed to have altered, concealed or destroyed such information, record or document, in case he knowingly fails to immediately report the matter to the Board or fails to preserve the same till such information continues to be relevant to any investigation, inquiry, audit, inspection or proceeding, which may be initiated by the Board and conclusion thereof;

(b) without being authorised to do so, access or tries to access, or denies of access or modifies access parameters, to the regulatory data in the database;

(c) without being authorised to do so, downloads, extracts, copies, or reproduces in any form the regulatory data maintained in the system database;

(d) knowingly introduces any computer virus or other computer contaminant into the system database and brings out a trading halt;

(e) without authorisation disrupts the functioning of system database;

(f) knowingly damages, destroys, deletes, alters, diminishes in value or utility, or affects by any means, the regulatory data in the system database; or

(g) knowingly provides any assistance to or causes any other person to do any of the acts specified in clauses (a) to (f), shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to ten crore rupees or three times the amount of profits made out of such act, whichever is higher.

Explanation.—In this section, the expressions “computer contaminant”, “computer virus” and “damage” shall have the meanings respectively assigned to them under section 43 of the Information Technology Act, 2000 (21 of 2000).]

1. Ins. by Act 59 of 2002, s. 16 (w.e.f. 29-10-2002).

2. Subs. by Act 27 of 2014, s.13, for certain words (w.e.f.8-2-2014).

3. Ins. by Act 59 of 2002, s. 17 (w.e.f. 29-10-2002).

4. Subs. by Act 27 of 2014, s. 14, for certain words (w.e.f. 8-2-2014).

5. Ins. by Act 23 of 2019, s. 185 (w.e.f. 20-1-2020).

15HB. Penalty for contravention where no separate penalty has been provided.—Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be ¹[liable to a penalty which shall not be less one lakh rupees but which may extend to one crore rupees].]

15-I. Power to adjudicate.—(1) For the purpose of adjudging under sections 15A, 15B, 15C, 15D, 15E, ²[15EA, 15EB,] 15F, 15G, ³[15H, 15HA and 15HB] the Board ⁴[may] appoint any officer not below the rank of a Division Chief to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

⁵[(3) The Board may call for and examine the record of any proceedings under this section and if it considers that the order passed by the adjudicating officer is erroneous to the extent it is not in the interests of the securities market, it may, after making or causing to be made such inquiry as it deems necessary, pass an order enhancing the quantum of penalty, if the circumstances of the case so justify:

Provided that no such order shall be passed unless the person concerned has been given an opportunity of being heard in the matter:

Provided further that nothing contained in this sub-section shall be applicable after an expiry of a period of three months from the date of the order passed by the adjudicating officer or disposal of the appeal under section 15T, whichever is earlier.]

15J. “[Factors to be taken into account while adjudging quantum of penalty].—While adjudging the quantum of penalty under ⁷[15-I or section 11 or section 11B, the Board or the adjudicating officer] officer shall have due regard to the following factors, namely:—

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused to an investor or group of investors as a result of the default;
- (c) the repetitive nature of the default.

⁸[Explanation.—For the removal of doubts, it is clarified that the power of ^{9***} to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.]

¹⁰[**15JA. Crediting sums realised by way of penalties to Consolidated Fund of India.**—All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

1. Subs. by Act 27 of 2014, s. 15, for “liable to a penalty which may extend to one crore rupees” (w.e.f. 8-2-2014).

2. Ins. by Act 13 of 2018, s. 184 (w.e.f. 8-3-2019).

3. Subs. by Act 59 of 2002, s. 18, for “and 15H” (w.e.f. 29-10-2002).

4. Subs. by Act 13 of 2018, s. 184, for “shall” (w.e.f. 8-3-2019).

5. Ins. by Act 27 of 2014, s. 16 (w.e.f. 28-3-2014).

6. Subs. by Act 13 of 2018, s. 185, for marginal heading (w.e.f. 8-3-2019).

7. Subs. by s. 185, *ibid.*, for “section 15-I, the adjudicating officer” (w.e.f. 8-3-2019).

8. Ins. by Act 7 of 2017, s.147 (w.e.f. 1-3-2017).

9. The words “of an adjudicating officer” omitted by Act 13 of 2018, s. 185 (w.e.f. 8-3-2018).

10. Ins. by Act 59 of 2002, s. 19 (w.e.f. 29-10-2002).

¹[**15JB. Settlement of administrative and civil proceedings.**—(1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 11, section 11B, section 11D, sub-section (3) of section 12 or section 15-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under this Act.

(3) The settlement proceedings under this section shall be conducted in accordance with the procedure specified in the regulations made under this Act.

(4) No appeal shall lie under section 15T against any order passed by the Board or adjudicating officer, as the case may be, under this section.]

²[(5) All settlement amounts, excluding the disgorgement amount and legal costs, realised under this Act shall be credited to the Consolidated Fund of India.]

CHAPTER VIB

ESTABLISHMENT, JURISDICTION, AUTHORITY AND PROCEDURE OF ³[SECURITIES APPELLATE TRIBUNAL]

⁴[**15K. Establishment of Securities Appellate Tribunal.**—(1) The Central Government shall, by notification, establish a Tribunal to be known as the Securities Appellate Tribunal to exercise the jurisdiction, powers and authority conferred on it by or under this Act or any other law for the time being in force.

(2) The Central Government shall also specify in the notification referred to in sub-section (1), the matters and places in relation to which the Securities Appellate Tribunal may exercise jurisdiction.]

⁵[**15L. Composition of Securities Appellate.**—(1) The Securities Appellate Tribunal shall consist of a Presiding Officer and such number of Judicial Members and Technical Members as the Central Government may determine, by notification, to exercise the powers and discharge the functions conferred on the Securities Appellate Tribunal under this Act or any other law for the time being in force.

(2) Subject to the provisions of this Act,—

(a) the jurisdiction of the Securities Appellate Tribunal may be exercised by Benches thereof;

(b) a Bench may be constituted by the Presiding Officer of the Securities Appellate Tribunal with two or more Judicial or Technical Members as he may deem fit:

Provided that every Bench constituted shall include at least one Judicial Member and one Technical Member;

(c) the Benches of the Securities Appellate Tribunal shall ordinarily sit at Mumbai and may also sit at such other places as the Central Government may, in consultation with the Presiding Officer, notify.

(3) Notwithstanding anything contained in sub-section (2), the Presiding Officer may transfer a Judicial Member or a Technical Member of the Securities Appellate Tribunal from one Bench to another Bench.]

1. Ins. by Act 27 of 2014, s. 17 (w.e.f. 20-4-2007).

2. Ins. by Act 13 of 2018, s. 186 (w.e.f. 8-3-2019).

3. Subs. by Act 7 of 2017, s. 148, for “APPELLATE TRIBUNAL” (w.e.f. 1-3-2017).

4. Subs. by s. 148, *ibid.*, for section 15K (w.e.f. 1-3-2017).

5. Subs. by s.148, *ibid.*, for section 15L (w.e.f.1-3-2017)

¹[**15M. Qualification for appointment as Presiding Officer, Judicial Member and Technical Member.**—A person shall not be qualified for appointment as the Presiding Officer or a Judicial Member or a Technical Member of the Securities Appellate Tribunal, unless he—

(a) is, or has been, a Judge of the Supreme Court or a Chief Justice of a High Court or a Judge of High Court for at least seven years, in the case of the Presiding Officer; and

(b) is, or has been, a Judge of High Court for at least five years, in the case of a Judicial Member; or

(c) in the case of a Technical Member—

(i) is, or has been, a Secretary or an Additional Secretary in the Ministry or Department of the Central Government or any equivalent post in the Central Government or a State Government; or

(ii) is a person of proven ability, integrity and standing having special knowledge and professional experience, of not less than fifteen years, in financial sector including securities market or pension funds or commodity derivatives or insurance.

15MA. Appointment of Presiding Officer and Judicial Member.—The Presiding Officer and Judicial Members of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.

15MB. Search-cum-Selection Committee for appointment of Technical Members.—(1) The Technical Members of the Securities Appellate Tribunal shall be appointed by the Central Government on the recommendation of a Search-cum-Selection Committee consisting of the following, namely:—

(a) Presiding Officer, Securities Appellate Tribunal—Chairperson;

(b) Secretary, Department of Economic Affairs—Member;

(c) Secretary, Department of Financial Services—Member; and

(d) Secretary, Legislative Department or Secretary, Department of Legal Affairs—Member.

(2) The Secretary, Department of Economic Affairs shall be the Convener of the Search-cum-Selection Committee.

(3) The Search-cum-Selection Committee shall determine its procedure for recommending the names of persons to be appointed under sub-section (1).

15MC. Vacancy not to invalidate selection proceeding.—(1) No appointment of the Presiding Officer, a Judicial Member or a Technical Member of the Securities Appellate Tribunal shall be invalid merely by reason of any vacancy or any defect in the constitution of the Search-cum-Selection Committee.

(2) A member or part time member of the Board or the Insurance Regulatory and Development Authority or the Pension Fund Regulatory and Development Authority, or any person at senior management level equivalent to the Executive Director in the Board or in such Authorities, shall not be appointed as Presiding Officer or Member of the Securities Appellate Tribunal, during his service or tenure as such with the Board or with such Authorities, as the case may be, or within two years from the date on which he ceases to hold office as such in the Board or in such Authorities.

(3) The Presiding Officer or such other member of the Securities Appellate Tribunal, holding office on the date of commencement of Part VIII of Chapter VI of the Finance Act, 2017 (7 of 2017) shall continue to hold office for such term as he was appointed and the other provisions of this Act shall apply to such Presiding Officer or such other member, as if Part VIII of Chapter VI of the Finance Act, 2017 had not been enacted.]

1. Subs. by Act 7 of 2017, s. 148, for section 15M (w.e.f. 1-3-2017).

¹[**15N. Tenure of office of Presiding Office, Judicial or Technical Members of Securities Appellate Tribunal.**—The Presiding Officer or every Judicial or Technical Member of the Securities Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office, and shall be eligible for reappointment for another term of maximum five years:

Provided that no Presiding Officer or the Judicial or Technical Member shall hold office after he has attained the age of seventy years.]

15-O. Salary and allowances and other terms and conditions of service of Presiding Officers.—The salary and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the ²[Presiding Officer and other Members of a Securities Appellate Tribunal] shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of services of the ³[Presiding Officer and other Members of a Securities Appellate Tribunal] shall be varied to their disadvantage after appointment.

15P. Filling up of vacancies.—If, for reason other than temporary absence, any vacancy occurs in ⁴[the office of the Presiding Officer or any other Member,] of a Securities Appellate Tribunal, then the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Securities Appellate Tribunal from the stage at which the vacancy is filled.

⁵[**15PA. Member to act as Presiding Officer in certain circumstances.**—In the event of occurrence of any vacancy in the office of the Presiding Officer of the Securities Appellate Tribunal by reason of his death, resignation or otherwise, the senior-most Judicial Member of the Securities Appellate Tribunal shall act as the Presiding Officer until the date on which a new Presiding Officer is appointed in accordance with the provisions of this Act.]

15Q. Resignation and removal.—(1) ⁶[The Presiding Officer or any other Member of a Securities Appellate Tribunal] may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that ⁷[the Presiding Officer or any other Member] shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor interts upon his office or until the expiry of his term of office, whichever is the earliest.

⁸[(2) The Central Government may, after an inquiry made by the Judge of the Supreme Court, remove the Presiding Officer or Judicial Member or Technical Member of the Securities Appellate Tribunal, if he—

(a) is, or at any time has been adjudged as an insolvent;

(b) has become physically or mentally incapable of acting as the Presiding Officer, Judicial or Technical Member;

(c) has been convicted of any offence which, in the opinion of the Central Government, involves moral turpitude;

(d) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest; or

1. Subs. by Act 7 of 2017, s.148, for section 15N (w.e.f. 26-5-2017).

2. Subs. by Act 59 of 2002, s. 22, for “Presiding Officer of a Securities Appellate Tribunal” (w.e.f. 29-10-2002).

3. Subs. by s. 22, *ibid.*, for “said Presiding Officers” (w.e.f. 29-10-2002).

4. Subs. by s. 23, *ibid.*, for “office of the Presiding Officer” (w.e.f. 29-10-2002).

5. Ins. by Act 7 of 2017, s. 148 (w.e.f. 26-5-2017).

6. Subs. by Act 59 of 2002, s. 24, for “Presiding Officer of a Securities Appellate Tribunal” (w.e.f. 29-10-2002).

7. Subs. by s. 24, *ibid.*, for “the said Presiding Officer” (w.e.f. 29-10-2002).

8. Subs. by Act 7 of 2017, s.148, for sub-section (2) (w.e.f. 26-5-2017)

(e) has acquired such financial interest or other interest as is likely to affect prejudicially his functions as the Presiding Officer or Judicial or Technical Member:

Provided that he shall not be removed from office under clauses (d) and (e), unless he has been given a reasonable opportunity of being heard in the matter.]

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the ¹[the Presiding Officer or any other Member].

²[15QA.Qualifications, terms and conditions of service of Presiding Officer and Member.]— Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Presiding Officer and other Members of the Appellate Tribunal appointed after the commencement of ³[the Tribunals Reforms Act, 2021, shall be governed by the provisions of Chapter II of the said Act]:

Provided that the Presiding Officer and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.]

15R. Orders constituting Appellate Tribunal to be final and not to invalidate its proceedings.— No order of the Central Government appointing any person as the ⁴[Presiding Officer or a Member] of a Securities Appellate Tribunal shall be called in question in any manner, and no act or proceeding before a Securities Appellate Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of a Securities Appellate Tribunal.

15S. Staff of the Securities Appellate Tribunal.—(1) The Central Government shall provide the Securities Appellate Tribunal with such officers and employees as that Government may think fit.

(2) The officers and employees of the Securities Appellate Tribunal shall discharge their functions under general superintendence of the Presiding Officer.

(3) The salaries and allowances and other conditions of service of the officers and employees of the Securities Appellate Tribunal shall be such as may be prescribed.

15T. Appeal to the Securities Appellate Tribunal.—⁵[(1) Save as provided in sub-section (2), any person aggrieved,—

(a) by an order of the Board made, on and after the commencement of the Securities Laws (Second Amendment) Act, 1999 (32 of 1999), under this Act, or the rules or regulations made thereunder; or

(b) by an order made by an adjudicating officer ⁶[under this Act; or]

⁷[(c) by an order of the Insurance Regulatory and Development Authority or the Pension Fund Regulatory and Development Authority,]

may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.]

8*

*

*

*

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which ⁹[a copy of the order made by the Board or the adjudicating officer ¹⁰[or the Insurance Regulatory and Development Authority or the Pension Fund Regulatory and Development Authority] as

1. Subs. by Act 59 of 2002, s. 24, for “aforesaid Presiding Officer” (w.e.f. 29-10-2002).

2. Ins. by Act 7 of 2017, s.178 (w.e.f. 26-5-2017)

3. Subs. by Act 33 of 2021, s. 17, for “Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act” (w.e.f. 4-4-2021).

4. Subs. by Act 59 of 2002, s. 25, for “Presiding Officer” (w.e.f. 29-10-2002).

5. Subs. by Act 32 of 1999, s. 9, for sub-section (1) (w.e.f. 16-12-1999).

6. Subs. by Act 7 of 2017, s. 148, “under this Act,” (w.e.f. 26-5-2017)

7. Ins. by s.148, *ibid.* (w.e.f. 26-5-2017)

8. Sub-section (2) omitted by Act 27 of 2014, s. 18 (w.e.f. 18-7-2013).

9. Subs. by Act 32 of 1999, s. 9, for “a copy of the order made, by the adjudicating officer” (w.e.f. 16-12-1999).

10. Ins. by Act 7 of 2017, s.148 (w.e.f. 26-5-2017).

the case may be,] is received by him and it shall be in such form and be accompanied by such fee as may be prescribed:

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The Securities Appellate Tribunal shall send a copy of every order made by it to the ¹[Board, ²or the Insurance Regulatory and Development Authority or the Pension Fund Regulatory and Development Authority, as the case may be] the parties to the appeal and to the concerned adjudicating officer.

(6) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

15U. Procedure and powers of the Securities Appellate Tribunal.—(1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:—

- (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;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex-parte*;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex-parte*;
- (h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code (45 of 1860) and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

²[(4) Where Benches are constituted, the Presiding Officer of the Securities Appellate Tribunal may, from time to time make provisions as to the distribution of the business of the Securities Appellate Tribunal amongst the Benches and also provide for the matters which may be dealt with, by each Bench.

(5) On the application of any of the parties and after notice to the parties, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Presiding Officer of the Securities Appellate Tribunal may transfer any case pending before one Bench, for disposal, to any other Bench.

(6) If a Bench of the Securities Appellate Tribunal consisting of two members differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Presiding

1. Subs. by Act 32 of 1999, s. 9, for “parties” (w.e.f. 16-12-1999).

2. Ins. by Act 7 of 2017, s.148 (w.e.f. 26-5-2017).

Officer of the Securities Appellate Tribunal who shall either hear the point or points himself or refer the case for hearing only on such point or points by one or more of the other members of the Securities Appellate Tribunal and such point or points shall be decided according to the opinion of the majority of the members of the Securities Appellate Tribunal who have heard the case, including those who first heard it.]

¹[15V. Right to legal representation.]—The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

(a) "chartered accountant" means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) "company secretary" means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) "cost accountant" means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) "legal practitioner" means an advocate, vakil or an attorney of any High Court, and includes a pleader in practice.]

15W. Limitation.—The provisions of the Limited Act, 1963 (36 of 1963), shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.

²[15X. Presiding Officer, Members and staff of Securities Appellate tribunal to be public servants.]—The Presiding Officer, Members and other officers and employees of a Securities Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).]

15Y. Civil Court not to have jurisdiction.—No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudication officer appointed under this Act or a Securities Appellate Tribunal constituted under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

³[15Z. Appeal to Supreme Court.]—Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order:

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]]

CHAPTER VII

MISCELLANEOUS

16. Power to Central Government to issue directions.—(1) Without prejudice to the foregoing provisions of this Act, the Board shall, in exercise of its powers or the performance of its functions under ⁴[this Act or the Depositories Act, 1996 (22 of 1996)], be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

1. Subs. by Act 32 of 1999, s. 10, for section 15V (w.e.f. 16-12-1999).

2. Subs. by Act 59 of 2002, s. 26, for section 15X (w.e.f. 29-10-2002).

3. Subs. by s. 27, *ibid.*, for section 15Z (w.e.f. 29-10-2002).

4. Subs. by Act 22 of 1996, s. 30 and the Schedule, for "this Act" (w.e.f. 20-9-1995).

Provided that the Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

17. Power of Central Government to supersede the Board.—(1) If at any time the Central Government is of opinion—

(a) that on account of grave emergency, the Board is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) that the Board has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Board or the administration of the Board has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification, supersede the Board for such period, not exceeding six months, as may be specified in the notification.

(2) Upon the publication of a notification under sub-section (1) superseding the Board,—

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Board, shall until the Board is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and

(c) all property owned or controlled by the Board shall, until the Board is reconstituted under sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may reconstitute the Board by a fresh appointment and in such case any person or persons who vacated their offices under clause (a) of sub-section (2), shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time, before the expiration of the period of supersession, take action under this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

18. Returns and reports.—(1) The Board shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the securities market, as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Board shall, within ¹[ninety days] after the end of each financial year, submit to the Central Government a report in such form, as may be prescribed, giving a true and full account of its activities, policy and programmes during the previous financial year.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament.

19. Delegation.—The Board may, by general or special order in writing delegate to any member, officer of the Board or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 29) as it may deem necessary.

20. Appeals.—(1) Any person aggrieved by ²[an order of the Board made, before the commencement of the Securities Laws (Second Amendment) Act, 1999 (32 of 1999),] under this Act, or the rules or

1. Subs. by Act 9 of 1995, s. 10, for “sixty days” (w.e.f. 25-1-1995).

2. Subs. by Act 32 of 1999, s. 11, for “an order of the Board made” (w.e.f. 16-12-1999).

regulations made thereunder may prefer an appeal to the Central Government within such time as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

¹[20A. Bar of jurisdiction.]—No order passed by the ²[Board or the adjudicating officer] under this Act shall be appealable except as provided in ³[section 15T or section 20] and no civil court shall have jurisdiction in respect of any matter which the ⁴[Board or the adjudicating officer] is empowered by, or under, this Act to pass any order and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any order passed by the ⁴[Board or the adjudicating officer] by, or under, this Act.]

21. Savings.—Nothing in this Act shall exempt any person from any suit or other proceedings which might, apart from this Act, be brought against him.

22. Members, officers and employees of the Board to be public servants.—All members, officers and other employees of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

23. Protection of action taken in good faith.—No suit, prosecution or other legal proceedings shall lie against the Central Government ⁴[or Board] or any officer of the Central Government or any member, officer or other employee of the Board for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

⁵[24. Offences.]—(1) Without prejudice to any award of penalty by the adjudicating officer ⁶[or the Board] under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, he shall be punishable with imprisonment for a term which may extend to ⁷[ten years, or with fine, which may extend to twenty-five crore rupees or with both].

(2) If any person fails to pay the penalty imposed by the adjudicating officer ⁸[or the Board] or fails to comply with any ^{9***} directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ¹⁰[ten years, or with fine, which may extend to twenty-five crore rupees or with both.]

¹¹[24A. Composition of certain offences.]—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.

1. Ins. by Act 9 of 1995, s. 11 (w.e.f. 25-1-1995).

2. Subs. by Act 32 of 1999, s. 12, for “Board” (w.e.f. 16-12-1999).

3. Subs. by s. 12, *ibid.*, for “section 20” (w.e.f. 16-12-1999).

4. Ins. by Act 9 of 1995, s. 12 (w.e.f. 25-1-1995).

5. Subs. by s. 13, *ibid.*, for section 24 (w.e.f. 25-1-1995).

6. Ins. by Act 13 of 2018, s. 187 (w.e.f. 8-3-2019).

7. Subs. by Act 59 of 2002, s. 28, for “one year, or with fine, or with both” (w.e.f. 29-10-2002).

8. Ins. by Act 13 of 2018, s. 187 (w.e.f. 8-3-2019).

9. The words “of his” omitted by s. 187, *ibid.* (w.e.f. 8-3-2019).

10. Subs. by Act 59 of 2002, s. 28, for certain words (w.e.f. 29-10-2002).

11. Ins. by s. 29, *ibid.* (w.e.f. 29-10-2002).

24B. Power to grant immunity.—(1) The Central Government may, on recommendation by the Board, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of the alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any penalty under this Act with respect to the alleged violation:

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity:

Provided further that recommendation of the Board under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.]

25. Exemption from tax on wealth and income.—Notwithstanding anything contained in the Wealth-tax Act, 1957 (27 of 1957), the Income-tax Act, 1961 (43 of 1961) or any other enactment for the time being in force relating to tax on wealth, income, profits or gains—

(a) the Board;

(b) the existing Securities and Exchange Board from the date of its constitution to the date of establishment of the Board,

shall not be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived.

26. Cognizance of offences by courts.—(1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations made thereunder, save on a complaint made by the Board.^{1***}.

2*

*

*

*

*

³[26A. Establishment of Special Courts.]—(1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

26B. Offences triable by Special Courts.—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Act, 2014 (27 of 2014) or on or after the date of such commencement, shall be taken cognizance of and tried by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

1. The words “with the previous sanction of the Central Government” omitted by Act 9 of 1995, s. 14 (w.e.f. 25-1-1995).

2. Sub-section (2) omitted by Act 27 of 2014, s. 19 (w.e.f. 18-7-2013).

3. Ins. by s. 20, *ibid.* (w.e.f. 18-7-2013).

26C. Appeal and revision.—The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 (2 of 1974) on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

26D. Application of Code to proceedings before Special Court.—(1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973 (2 of 1974).

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

26E. Transitional provisions.—Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be taken cognizance of and tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974):

Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code of Criminal Procedure, 1973 (2 of 1974) to transfer any case or class of cases taken cognizance by a Court of Session under this section.]

27. ¹[Contravention by companies].—(1) Where ²[a contravention of any of the provisions of this Act or any rule, regulation, direction or order made thereunder] has been committed by a company, every person who at the time the ³[contravention] was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the ⁴[contravention] was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an ⁴[contravention] under this Act has been committed by a company and it is proved that the ⁴[contravention] has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the ⁴[contravention] 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.

28. [Power to exempt.] Omitted by the Securities Laws (Amendment) Act, 1995 (9 of 1995), s. 15 (w.e.f. 25-1-1995).

⁴[28A. Recovery of amounts].—(1) If a person fails to pay the penalty imposed ⁵[under this Act] or fails to comply with any direction of the Board for refund of monies or fails to comply with a direction of disgorgement order issued under section 11B or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:—

(a) attachment and sale of the person’s movable property;

1. Subs. by Act 13 of 2018, s. 188, for marginal heading (w.e.f. 8-3-2019).

2. Subs. by s. 188, *ibid.*, for “an offence under this Act” (w.e.f. 8-3-2019).

3. Subs. by s. 188, *ibid.*, for “offence” (w.e.f. 8-3-2019).

4. Ins. by Act 27 of 2014, s. 21 (w.e.f. 18-7-2013).

5. Subs. by Act 13 of 2018, s. 189, for “by the adjudicating officer” (w.e.f. 8-3-2019).

- (b) attachment of the person's bank accounts;
- (c) attachment and sale of the person's immovable property;
- (d) arrest of the person and his detention in prison;
- (e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of sections 220 to 227, 228A, 229, 232, the Second and Third Schedules to the Income-tax Act, 1961 (43 of 1961) and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules made thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1.—For the purposes of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

Explanation 2.—Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 (43 of 1961) and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3.—Any reference to appeal in Chapter XVIID and the Second Schedule to the Income-tax Act, 1961 (43 of 1961), shall be construed as a reference to appeal before the Securities Appellate Tribunal under section 15T of this Act.

¹[*Explanation 4.* —The interest referred to in section 220 of the Income-tax Act, 1961 shall commence from the date the amount became payable by the person.]

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section 11B, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression “Recovery Officer” means any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.]

²[**28B. Continuance of proceedings.**—(1) Where a person dies, his legal representative shall be liable to pay any sum which the deceased would have been liable to pay, if he had not died, in the like manner and to the same extent as the deceased:

Provided that, in case of any penalty payable under this Act, a legal representative shall be liable only in case the penalty has been imposed before the death of the deceased person.

(2) For the purposes of sub-section (1),—

(a) any proceeding for disgorgement, refund or an action for recovery before the Recovery Officer under this Act, except a proceeding for levy of penalty, initiated against the deceased before his death, shall be deemed to have been initiated against the legal representative, and may be continued against the legal representative from the stage at which it stood on the date of the death of the deceased and all the provisions of this Act shall apply accordingly;

(b) any proceeding for disgorgement, refund or an action for recovery before the Recovery Officer under this Act, except a proceeding for levy of penalty, which could have been initiated

1. The *Explanation* ins. by Act 21 of 2019, s. 42 and the Second Schedule (w.e.f. 21-2-2019).

2. Ins. by Act 13 of 2018, s. 190 (w.e.f. 8-3-2019).

against the deceased if he had survived, may be initiated against the legal representative and all the provisions of this Act shall apply accordingly.

(3) Every legal representative shall be personally liable for any sum payable by him in his capacity as legal representative if, while his liability for such sum remains undischarged, he creates a charge on or disposes of or parts with any assets of the estate of the deceased, which are in, or may come into, his possession, but such liability shall be limited to the value of the asset so charged, disposed of or parted with.

(4) The liability of a legal representative under this section shall be limited to the extent to which the estate of the deceased is capable of meeting the liability.

Explanation.—For the purposes of this section “legal representative” means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character, the person on whom the estate devolves on the death of the party so suing or sued.]

¹[28C. Powers of Board not to apply to International Financial Services Centre.]—Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Board under this Act,—

(a) shall not extend to an International Financial Services Centre set up under sub-section (1) of section 18 of the Special Economic Zones Act, 2005 (28 of 2005);

(b) shall be exercisable by the International Financial Services Centres Authority established under sub-section (1) of section 4 of the International Financial Services Centres Authority Act, 2019, in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centres are concerned.]

29. Power to make rules.—(1) The Central Government may, by notification, 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 term of office and other conditions of service of the Chairman and the members under sub-section (1) of section 5;

(b) the additional functions that may be performed by the Board under section 11;

2* * * * *;

(d) the manner in which the accounts of the Board shall be maintained under section 15;

³[(da) the manner of inquiry under sub-section (1) of section 15-I;

(db) the salaries and allowances and other terms and conditions of service of the ⁴[Presiding Officers, Members] and other officers and employees of the Securities Appellate Tribunal under section 15-O and sub-section (3) of section 15S;

(dc) the procedure for the investigation of misbehaviour or incapacity of the ⁵[Presiding Officers, or other Members] of the Securities Appellate Tribunal under sub-section (3) of section 15Q;

(dd) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 15T and the fees payable in respect of such appeal;]

(e) the form and the manner in which returns and report to be made to the Central Government under section 18;

(f) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by rules.

30. Power to make regulations.—(1) The Board may, ^{6***} by notification, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

(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:—

1. Ins. by Act 50 of 2019, s. 33 and the second Schedule (w.e.f. 1-10-2020).

2. Clause (c) omitted by Act 9 of 1995, s. 16 (w.e.f. 25-1-1995).

3. Ins. by s. 16, *ibid.* (w.e.f. 25-1-1995).

4. Subs. by Act 59 of 2002, s. 31, for “Presiding Officers” (w.e.f. 29-10-2002).

5. Subs. by s. 31, *ibid.*, for “Presiding Officers” (w.e.f. 29-10-2002).

6. The words “with the previous approval of the Central Government” omitted by Act 9 of 1995, s. 17 (w.e.f. 25-1-1995).

(a) the times and places of meetings of the Board and the procedure to be followed at such meetings under sub-section (1) of section 7 including quorum necessary for the transaction of business;

(b) the term and other conditions of service of officers and employees of the Board under sub-section (2) of section 9;

¹[(c) the matters relating to issue of capital, transfer of securities and other matters incidental thereto and the manner in which such matters shall be disclosed by the companies under section 11A;

²[(ca) the utilisation of the amount credited under sub-section (5) of section 11;

(cb) the fulfilment of other conditions relating to collective investment scheme under sub-section (2A) of section 11AA;]

(d) the conditions subject to which certificate of registration is to be issued, the amount of fee to be paid for certificate of registration and the manner of suspension or cancellation of certificate of registration under section 12;]

³[(da) the terms determined by the Board for settlement of proceedings under sub-section (2) and the procedure for conducting of settlement proceedings under sub-section (3) of section 15JB;

(db) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.]

31. Rules and regulations to be laid before Parliament.—Every rule and every regulation made under this Act 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 or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation 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 or regulation.

32. Application of other laws not barred.—The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

[**33. Amendment of certain enactments.**] Rep. by the Repealing and Amending Act, 2001 (30 of 2001), s. 2 and the First Schedule (w.e.f. 3-9-2001).

34. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of five years from the commencement of this Act.

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

4[34A. Validation of certain acts.—Any act or thing done or purporting to have been done under the principal Act, in respect of calling for information from, or furnishing information to, other authorities, whether in India or outside India, having functions similar to those of the Board and in respect of settlement of administrative and civil proceedings, shall, for all purposes, be deemed to be valid and effective as if the amendments made to the principal Act had been in force at all material times.]

35. Repeal and saving.—(1) The Securities and Exchange Board of India Ordinance, 1992 (Ord. 5 of 1992), 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 the corresponding provisions of this Act.

1. Subs. by Act 9 of 1995, s. 17, for clause (c) (w.e.f. 25-1-1995).

2. Ins. by Act 27 of 2014, s. 22 (w.e.f. 18-7-2013).

3. Ins. by s. 22, *ibid.* (w.e.f. 18-7-2013).

4. Ins. by s. 23, *ibid.* (w.e.f. 18-7-2013).

[THE SCHEDEULE.] Rep. by the Repealing and Amending Act, 2001 (30 of 2001), s. 2 and the First Schedule (w.e.f. 3-9-2001).

THE INFORMATION TECHNOLOGY ACT, 2000

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

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

CHAPTER II

DIGITAL SIGNATURE AND ELECTRONIC SIGNATURE

3. Authentication of electronic records.
- 3A. Electronic signature.

CHAPTER III

ELECTRONIC GOVERNANCE

4. Legal recognition of electronic records.
5. Legal recognition of electronic signatures.
6. Use of electronic records and electronic signatures in Government and its agencies.
- 6A. Delivery of services by service provider.
7. Retention of electronic records.
- 7A. Audit of documents, etc., maintained in electronic form.
8. Publication of rule, regulation, etc., in Electronic Gazette.
9. Sections 6, 7 and 8 not to confer right to insist document should be accepted in electronic form.
10. Power to make rules by Central Government in respect of electronic signature.
- 10A. Validity of contracts formed through electronic means.

CHAPTER IV

ATTRIBUTION, ACKNOWLEDGEMENT AND DESPATCH OF ELECTRONIC RECORDS

11. Attribution of electronic records.
12. Acknowledgment of receipt.
13. Time and place of despatch and receipt of electronic record.

CHAPTER V

SECURE ELECTRONIC RECORDS AND SECURE ELECTRONIC SIGNATURE

14. Secure electronic record.
15. Secure electronic signature.
16. Security procedures and practices.

CHAPTER VI

REGULATION OF CERTIFYING AUTHORITIES

17. Appointment of Controller and other officers.
18. Functions of Controller.
19. Recognition of foreign Certifying Authorities.
20. [Omitted].
21. Licence to issue electronic signature Certificates.
22. Application for licence.
23. Renewal of licence.
24. Procedure for grant or rejection of licence.
25. Suspension of licence.
26. Notice of suspension or revocation of licence.

SECTIONS

27. Power to delegate.
28. Power to investigate contraventions.
29. Access to computers and data.
30. Certifying Authority to follow certain procedures.
31. Certifying Authority to ensure compliance of the Act, etc.
32. Display of licence.
33. Surrender of licence.
34. Disclosure.

CHAPTER VII

ELECTRONIC SIGNATURE CERTIFICATES

35. Certifying authority to issue electronic signature Certificate.
36. Representations upon issuance of Digital signature Certificate.
37. Suspension of Digital Signature Certificate.
38. Revocation of Digital Signature Certificate.
39. Notice of suspension or revocation.

CHAPTER VIII

DUTIES OF SUBSCRIBERS

40. Generating key pair.
- 40A. Duties of subscriber of Electronic Signature Certificate.
41. Acceptance of Digital Signature Certificate.
42. Control of private key.

CHAPTER IX

PENALTIES, COMPENSATION AND ADJUDICATION

43. Penalty and compensation for damage to computer, computer system, etc.
- 43A. Compensation for failure to protect data.
44. Penalty for failure to furnish information, return, etc.
45. Residuary penalty.
46. Power to adjudicate.
47. Factors to be taken into account by the adjudicating officer.

CHAPTER X

THE APPELLATE TRIBUNAL

48. Appellate Tribunal.
49. [Omitted].
50. [Omitted].
51. [Omitted].
52. [Omitted].
- 52A. [Omitted].
- 52B. [Omitted].
- 52C. [Omitted].
- 52D. Decision by majority.
53. [Omitted].
54. [Omitted].
55. Orders constituting Appellate Tribunal to be final and not to invalidate its proceedings.
56. [Omitted].
57. Appeal to Appellate Tribunal.
58. Procedure and powers of the Appellate Tribunal.
59. Right to legal representation.
60. Limitation.
61. Civil court not to have jurisdiction.
62. Appeal to High Court.
63. Compounding of contraventions.

SECTIONS

64. Recovery of penalty or compensation.

CHAPTER XI

OFFENCES

65. Tampering with computer source documents.

66. Computer related offences.

66A. Punishment for sending offensive messages through communication service, etc.

66B. Punishment for dishonestly receiving stolen computer resource or communication device.

66C. Punishment for identity theft.

66D. Punishment for cheating by personation by using computer resource.

66E. Punishment for violation of privacy.

66F. Punishment for cyber terrorism.

67. Punishment for publishing or transmitting obscene material in electronic form.

67A. Punishment for publishing or transmitting of material containing sexually explicit act, etc., in electronic form.

67B. Punishment for publishing or transmitting of material depicting children in sexually explicit act, etc., in electronic form.

67C. Preservation and retention of information by intermediaries.

68. Power of Controller to give directions.

69. Power to issue directions for interception or monitoring or decryption of any information through any computer resource.

69A. Power to issue directions for blocking for public access of any information through any computer resource.

69B. Power to authorise to monitor and collect traffic data or information through any computer resource for cyber security.

70. Protected system.

70A. National nodal agency.

70B. Indian Computer Emergency Response Team to serve as national agency for incident response.

71. Penalty for misrepresentation.

72. Penalty for Breach of confidentiality and privacy.

72A. Punishment for disclosure of information in breach of lawful contract.

73. Penalty for publishing electronic signature Certificate false in certain particulars.

74. Publication for fraudulent purpose.

75. Act to apply for offence or contravention committed outside India.

76. Confiscation.

77. Compensation, penalties or confiscation not to interfere with other punishment.

77A. Compounding of offences.

77B. Offences with three years imprisonment to be bailable.

78. Power to investigate offences.

CHAPTER XII

INTERMEDIARIES NOT TO BE LIABLE IN CERTAIN CASES

79. Exemption from liability of intermediary in certain cases.

CHAPTER XIII A

EXAMINER OF ELECTRONIC EVIDENCE

79A. Central Government to notify Examiner of Electronic Evidence.

CHAPTER XIII

MISCELLANEOUS

80. Power of police officer and other officers to enter, search, etc.

81. Act to have overriding effect.

81A. Application of the Act to electronic cheque and truncated cheque.

82. Controller, Deputy Controller and Assistant Controller to be public servants.

SECTIONS

- 83. Power to give directions.
- 84. Protection of action taken in good faith.
- 84A. Modes or methods for encryption.
- 84B. Punishment for abetment of offences.
- 84C. Punishment for attempt to commit offences.
- 85. Offences by companies.
- 86. Removal of difficulties.
- 87. Power of Central Government to make rules.
- 88. Constitution of Advisory Committee.
- 89. Power of Controller to make regulations.
- 90. Power of State Government to make rules.
- 91. [*Omitted.*].
- 92. [*Omitted.*].
- 93. [*Omitted.*].
- 94. [*Omitted.*].

THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

THE THIRD SCHEDULE [*Omitted.*].

THE FOURTH SCHEDULE [*Omitted.*].

THE INFORMATION TECHNOLOGY ACT, 2000

ACT NO. 21 OF 2000

[9th June, 2000.]

An Act to provide legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication, commonly referred to as “electronic commerce”, which involve the use of alternatives to paper-based methods of communication and storage of information, to facilitate electronic filing of documents with the Government agencies and further to amend the Indian Penal Code, the Indian Evidence Act, 1872, the Banker’s Books Evidence Act, 1891 and the Reserve Bank of India Act, 1934 and for matters connected therewith or incidental thereto.

WHEREAS the General Assembly of the United Nations by resolution A/RES/51/162, dated the 30th January, 1997 has adopted the Model Law on Electronic Commerce adopted by the United Nations Commission on International Trade Law;

AND WHEREAS the said resolution recommends *inter alia*, that all States give favourable consideration to the said Model Law when they enact or revise their laws, in view of the need for uniformity of the law applicable to alternatives to paper-based methods of communication and storage of information;

AND WHEREAS it is considered necessary to give effect to the said resolution and to promote efficient delivery of Government services by means of reliable electronic records.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

CHAPTER 1

PRELIMINARY

1. Short title, extent, commencement and application.—(1) This Act may be called the Information Technology Act, 2000.

(2) It shall extend to the whole of India and, save as otherwise provided in this Act, it applies also to any offence or contravention thereunder committed outside India by any person.

(3) It shall come into force on such date¹ as the Central Government may, by notification, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

²[(4) Nothing in this Act shall apply to documents or transactions specified in the First Schedule:

Provided that the Central Government may, by notification in the Official Gazette, amend the First Schedule by way of addition or deletion of entries thereto.

(5) Every notification issued under sub-section (4) shall be laid before each House of Parliament.]

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

(a) “access” with its grammatical variations and cognate expressions means gaining entry into, instructing or communicating with the logical, arithmetical, or memory function resources of a computer, computer system or computer network;

(b) “addressee” means a person who is intended by the originator to receive the electronic record but does not include any intermediary;

(c) “adjudicating officer” means an adjudicating officer appointed under sub-section (1) of section 46;

1. 17th October, 2000, *vide* notification No. G.S.R. 788 (E), dated 17th October, 2000, *see* Gazette of India, Extraordinary, Part II, sec. 3(ii).

2. Subs. by Act 10 of 2009, s. 3, for sub-section (4) (w.e.f. 27-10-2009).

(d) “affixing¹[electronic signature]” with its grammatical variations and cognate expressions means adoption of any methodology or procedure by a person for the purpose of authenticating an electronic record by means of digital signature;

²[(da) “Appellate Tribunal” means the Appellate Tribunal referred to in sub-section (1) of section 48;]

(e) “appropriate Government” means as respects any matter,—

(i) enumerated in List II of the Seventh Schedule to the Constitution;

(ii) relating to any State law enacted under List III of the Seventh Schedule to the Constitution,

the State Government and in any other case, the Central Government;

(f) “asymmetric crypto system” means a system of a secure key pair consisting of a private key for creating a digital signature and a public key to verify the digital signature;

(g) “Certifying Authority” means a person who has been granted a licence to issue a¹[electronic signature] Certificate under section 24;

(h) “certification practice statement” means a statement issued by a Certifying Authority to specify the practices that the Certifying Authority employs in issuing¹[electronic signature] Certificates;

³[(ha) “communication device” means cell phones, personal digital assistance or combination of both or any other device used to communicate, send or transmit any text, video, audio or image;]

(i) “computer” means any electronic, magnetic, optical or other high-speed data processing device or system which performs logical, arithmetic, and memory functions by manipulations of electronic, magnetic or optical impulses, and includes all input, output, processing, storage, computer software or communication facilities which are connected or related to the computer in a computer system or computer network;

⁴[(j) “computer network” means the inter-connection of one or more computers or computer systems or communication device through—

(i) the use of satellite, microwave, terrestrial line, wire, wireless or other communication media; and

(ii) terminals or a complex consisting of two or more interconnected computers or communication device whether or not the inter-connection is continuously maintained;]

(k) “computer resource” means computer, computer system, computer network, data, computer data base or software;

(l) “computer system” means a device or collection of devices, including input and output support devices and excluding calculators which are not programmable and capable of being used in conjunction with external files, which contain computer programmes, electronic instructions, input data and output data, that performs logic, arithmetic, data storage and retrieval, communication control and other functions;

(m) “Controller” means the Controller of Certifying Authorities appointed under sub-section (1) of section 17;

5*

*

*

*

*

²[(na) “cyber cafe” means any facility from where access to the internet is offered by any person in the ordinary course of business to the members of the public;

1. Subs. by Act 10 of 2009, s. 2, for “digital signature” (w.e.f. 27-10-2009).

2. Ins. by Act 7 of 2017, s. 169 (w.e.f. 26-5-2017).

3. Ins. by Act 10 of 2009, s. 4, *ibid.* (w.e.f. 27-10-2009).

4. Subs. by s. 4, *ibid.*, for clause (j) (w.e.f. 27-10-2009).

5. Clause (n) omitted by Act 7 of 2017, s.169 (w.e.f. 26-5-2017).

(nb) “cyber security” means protecting information, equipment, devices, computer, computer resource, communication device and information stored therein from unauthorised access, use, disclosure, disruption, modification or destruction;]

(o) “data” means a representation of information, knowledge, facts, concepts or instructions which are being prepared or have been prepared in a formalised manner, and is intended to be processed, is being processed or has been processed in a computer system or computer network, and may be in any form (including computer printouts magnetic or optical storage media, punched cards, punched tapes) or stored internally in the memory of the computer;

(p) “digital signature” means authentication of any electronic record by a subscriber by means of an electronic method or procedure in accordance with the provisions of section 3;

(q) “Digital Signature Certificate” means a Digital Signature Certificate issued under sub-section (4) of section 35;

(r) “electronic form” with reference to information, means any information generated, sent, received or stored in media, magnetic, optical, computer memory, micro film, computer generated micro fiche or similar device;

(s) “Electronic Gazette” means the Official Gazette published in the electronic form;

(t) “electronic record” means data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche;

¹[(ta) “electronic signature” means authentication of any electronic record by a subscriber by means of the electronic technique specified in the Second Schedule and includes digital signature;

(tb) “Electronic Signature Certificate” means an Electronic Signature Certificate issued under section 35 and includes Digital Signature Certificate;]

(u) “function”, in relation to a computer, includes logic, control, arithmetical process, deletion, storage and retrieval and communication or telecommunication from or within a computer;

¹[(ua) Indian Computer Emergency Response Team” means an agency established under sub-section (1) of Section 70B;]

(v) “information” includes ²[data, message, text,] images, sound, voice, codes, computer programmes, software and data bases or micro film or computer generated micro fiche;

³[(w) “intermediary”, with respect to any particular electronic records, means any person who on behalf of another person receives, stores or transmits that record or provides any service with respect to that record and includes telecom service providers, network service providers, internet service providers, web-hosting service providers, search engines, online payment sites, online-auction sites, online-market places and cyber cafes;]

(x) “key pair”, in an asymmetric crypto system, means a private key and its mathematically related public key, which are so related that the public key can verify a digital signature created by the private key;

(y) “law” includes any Act of Parliament or of a State Legislature, Ordinances promulgated by the President or a Governor, as the case may be, Regulations made by the President under article 240, Bills enacted as President's Act under sub-clause (a) of clause (1) of article 357 of the Constitution and includes rules, regulations, bye-laws and orders issued or made thereunder;

(z) “licence” means a licence granted to a Certifying Authority under section 24;

(za) “originator” means a person who sends, generates, stores or transmits any electronic message or causes any electronic message to be sent, generated, stored or transmitted to any other person but does not include an intermediary;

(zb) “prescribed” means prescribed by rules made under this Act;

(zc) “private key” means the key of a key pair used to create a digital signature;

1. Ins. by Act 10 of 2009, s. 4 (w.e.f. 27-10-2009).

2. Subs. by s. 4, *ibid.*, for “data, text” (w.e.f. 27-10-2009).

3. Subs. by s. 4, *ibid.*, for clause (w) (w.e.f. 27-10-2009).

(zd) “public key” means the key of a key pair used to verify a digital signature and listed in the Digital Signature Certificate;

(ze) “secure system” means computer hardware, software, and procedure that—

- (a) are reasonably secure from unauthorised access and misuse;
- (b) provide a reasonable level of reliability and correct operation;
- (c) are reasonably suited to performing the intended functions; and
- (d) adhere to generally accepted security procedures;

(zf) “security procedure” means the security procedure prescribed under section 16 by the Central Government;

(zg) “subscriber” means a person in whose name the ¹[electronic signature] Certificate is issued;

(zh) “verify”, in relation to a digital signature, electronic record or public key, with its grammatical variations and cognate expressions, means to determine whether—

(a) the initial electronic record was affixed with the digital signature by the use of private key corresponding to the public key of the subscriber;

(b) the initial electronic record is retained intact or has been altered since such electronic record was so affixed with the digital signature.

(2) Any reference in this Act to any enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area.

CHAPTER II

²[DIGITAL SIGNATURE AND ELECTRONIC SIGNATURE]

3. Authentication of electronic records.—(1) Subject to the provisions of this section any subscriber may authenticate an electronic record by affixing his digital signature.

(2) The authentication of the electronic record shall be effected by the use of asymmetric crypto system and hash function which envelop and transform the initial electronic record into another electronic record.

Explanation.—For the purposes of this sub-section, “hash function” means an algorithm mapping or translation of one sequence of bits into another, generally smaller, set known as “hash result” such that an electronic record yields the same hash result every time the algorithm is executed with the same electronic record as its input making it computationally infeasible—

(a) to derive or reconstruct the original electronic record from the hash result produced by the algorithm;

(b) that two electronic records can produce the same hash result using the algorithm.

(3) Any person by the use of a public key of the subscriber can verify the electronic record.

(4) The private key and the public key are unique to the subscriber and constitute a functioning key pair.

³[3A. Electronic signature.]—(1) Notwithstanding anything contained in section 3, but subject to the provisions of sub-section (2), a subscriber may authenticate any electronic record by such electronic signature or electronic authentication technique which—

(a) is considered reliable; and

(b) may be specified in the Second Schedule.

(2) For the purposes of this section any electronic signature or electronic authentication technique shall be considered reliable if—

1. Subs. by Act 10 of 2009, s. 2, for “digital signature” (w.e.f. 27-10-2009).

2. Subs. by s. 5, *ibid.*, for the heading “DIGITAL SIGNATURE” (w.e.f. 27-10-2009).

3. Ins. by s. 6, *ibid.* (w.e.f. 27-10-2009).

- (a) the signature creation data or the authentication data are, within the context in which they are used, linked to the signatory or, as the case may be, the authenticator and to no other person;
- (b) the signature creation data or the authentication data were, at the time of signing, under the control of the signatory or, as the case may be, the authenticator and of no other person;
- (c) any alteration to the electronic signature made after affixing such signature is detectable;
- (d) any alteration to the information made after its authentication by electronic signature is detectable; and
- (e) it fulfils such other conditions which may be prescribed.

(3) The Central Government may prescribe the procedure for the purpose of ascertaining whether electronic signature is that of the person by whom it is purported to have been affixed or authenticated.

(4) The Central Government may, by notification in the Official Gazette, add to or omit any electronic signature or electronic authentication technique and the procedure for affixing such signature from the Second Schedule:

Provided that no electronic signature or authentication technique shall be specified in the Second Schedule unless such signature or technique is reliable.

(5) Every notification issued under sub-section (4) shall be laid before each House of Parliament.]

CHAPTER III

ELECTRONIC GOVERNANCE

4. Legal recognition of electronic records.—Where any law provides that information or any other matter shall be in writing or in the typewritten or printed form, then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied if such information or matter is—

- (a) rendered or made available in an electronic form; and
- (b) accessible so as to be usable for a subsequent reference.

5. Legal recognition of ¹[electronic signatures].—Where any law provides that information or any other matter shall be authenticated by affixing the signature or any document shall be signed or bear the signature of any person, then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied, if such information or matter is authenticated by means of ¹[electronic signature] affixed in such manner as may be prescribed by the Central Government.

Explanation.—For the purposes of this section, “signed”, with its grammatical variations and cognate expressions, shall, with reference to a person, mean affixing of his hand written signature or any mark on any document and the expression “signature” shall be construed accordingly.

6. Use of electronic records and ¹[electronic signatures] in Government and its agencies.—(1) Where any law provides for—

- (a) the filing of any form, application or any other document with any office, authority, body or agency owned or controlled by the appropriate Government in a particular manner;
- (b) the issue or grant of any licence, permit, sanction or approval by whatever name called in a particular manner;
- (c) the receipt or payment of money in a particular manner,

then, notwithstanding anything contained in any other law for the time being in force, such requirement shall be deemed to have been satisfied if such filing, issue, grant, receipt or payment, as the case may be, is effected by means of such electronic form as may be prescribed by the appropriate Government.

(2) The appropriate Government may, for the purposes of sub-section (1), by rules, prescribe—

- (a) the manner and format in which such electronic records shall be filed, created or issued;

1. Subs. by Act 10 of 2009, s. 2, for “digital signatures” (w.e.f. 27-10-2009).

(b) the manner or method of payment of any fee or charges for filing, creation or issue any electronic record under clause (a).

¹[6A. Delivery of services by service provider.]—(1) The appropriate Government may, for the purposes of this Chapter and for efficient delivery of services to the public through electronic means authorise, by order, any service provider to set up, maintain and upgrade the computerised facilities and perform such other services as it may specify, by notification in the Official Gazette.

Explanation.—For the purposes of this section, service provider so authorised includes any individual, private agency, private company, partnership firm, sole proprietor firm or any such other body or agency which has been granted permission by the appropriate Government to offer services through electronic means in accordance with the policy governing such service sector.

(2) The appropriate Government may also authorise any service provider authorised under sub-section (1) to collect, retain and appropriate such service charges, as may be prescribed by the appropriate Government for the purpose of providing such services, from the person availing such service.

(3) Subject to the provisions of sub-section (2), the appropriate Government may authorise the service providers to collect, retain and appropriate service charges under this section notwithstanding the fact that there is no express provision under the Act, rule, regulation or notification under which the service is provided to collect, retain and appropriate e-service charges by the service providers.

(4) The appropriate Government shall, by notification in the Official Gazette, specify the scale of service charges which may be charged and collected by the service providers under this section:

Provided that the appropriate Government may specify different scale of service charges for different types of services.]

7. Retention of electronic records.—(1) Where any law provides that documents, records or information shall be retained for any specific period, then, that requirement shall be deemed to have been satisfied if such documents, records or information are retained in the electronic form, if—

(a) the information contained therein remains accessible so as to be usable for a subsequent reference;

(b) the electronic record is retained in the format in which it was originally generated, sent or received or in a format which can be demonstrated to represent accurately the information originally generated, sent or received;

(c) the details which will facilitate the identification of the origin, destination, date and time of despatch or receipt of such electronic record are available in the electronic record:

Provided that this clause does not apply to any information which is automatically generated solely for the purpose of enabling an electronic record to be despatched or received.

(2) Nothing in this section shall apply to any law that expressly provides for the retention of documents, records or information in the form of electronic records.

²[7A. Audit of documents, etc., maintained in electronic form.]—Where in any law for the time being in force, there is a provision for audit of documents, records or information, that provision shall also be applicable for audit of documents, records or information processed and maintained in the electronic form.]

8. Publication of rule, regulation, etc., in Electronic Gazette.—Where any law provides that any rule, regulation, order, bye-law, notification or any other matter shall be published in the Official Gazette, then, such requirement shall be deemed to have been satisfied if such rule, regulation, order, bye-law, notification or any other matter is published in the Official Gazette or Electronic Gazette:

Provided that where any rule, regulation, order, by-law, notification or any other matter is published in the Official Gazette or Electronic Gazette, the date of publication shall be deemed to be the date of the Gazette which was first published in any form.

9. Sections 6, 7 and 8 not to confer right to insist document should be accepted in electronic form.—Nothing contained in sections 6, 7 and 8 shall confer a right upon any person to insist that any

1. Ins. by Act 10 of 2009, s. 7 (w.e.f. 27-10-2009).

2. Ins. by s. 8, *ibid.* (w.e.f. 27-10-2009).

Ministry or Department of the Central Government or the State Government or any authority or body established by or under any law or controlled or funded by the Central or State Government should accept, issue, create, retain and preserve any document in the form of electronic records or effect any monetary transaction in the electronic form.

10. Power to make rules by Central Government in respect of ¹[electronic signature].—The Central Government may, for the purposes of this Act, by rules, prescribe—

- (a) the type of ¹[electronic signature];
- (b) the manner and format in which the ¹[electronic signature] shall be affixed;
- (c) the manner or procedure which facilitates identification of the person affixing the ¹[electronic signature];
- (d) control processes and procedures to ensure adequate integrity, security and confidentiality of electronic records or payments; and
- (e) any other matter which is necessary to give legal effect to ¹[electronic signatures].

²[10A. Validity of contracts formed through electronic means.]—Where in a contract formation, the communication of proposals, the acceptance of proposals, the revocation of proposals and acceptances, as the case may be, are expressed in electronic form or by means of an electronic records, such contract shall not be deemed to be unenforceable solely on the ground that such electronic form or means was used for that purpose.]

CHAPTER IV

ATTRIBUTION, ACKNOWLEDGMENT AND DESPATCH OF ELECTRONIC RECORDS

11. Attribution of electronic records.—An electronic record shall be attributed to the originator—

- (a) if it was sent by the originator himself;
- (b) by a person who had the authority to act on behalf of the originator in respect of that electronic record; or
- (c) by an information system programmed by or on behalf of the originator to operate automatically.

12. Acknowledgment of receipt.—(1) Where the originator has not ³[stipulated] that the acknowledgment of receipt of electronic record be given in a particular form or by a particular method, an acknowledgment may be given by—

- (a) any communication by the addressee, automated or otherwise; or
- (b) any conduct of the addressee, sufficient to indicate to the originator that the electronic record has been received.

(2) Where the originator has stipulated that the electronic record shall be binding only on receipt of an acknowledgment of such electronic record by him, then unless acknowledgment has been so received, the electronic record shall be deemed to have been never sent by the originator.

(3) Where the originator has not stipulated that the electronic record shall be binding only on receipt of such acknowledgment, and the acknowledgment has not been received by the originator within the time specified or agreed or, if no time has been specified or agreed to within a reasonable time, then the originator may give notice to the addressee stating that no acknowledgment has been received by him and specifying a reasonable time by which the acknowledgment must be received by him and if no acknowledgment is received within the aforesaid time limit he may after giving notice to the addressee, treat the electronic record as though it has never been sent.

13. Time and place of despatch and receipt of electronic record.—(1) Save as otherwise agreed to between the originator and the addressee, the despatch of an electronic record occurs when it enters a computer resource outside the control of the originator.

1. Subs. by Act 10 of 2009, s. 2, for “digital signature” (w.e.f. 27-10-2009).

2. Ins. by s. 9, *ibid.* (w.e.f. 27-10-2009).

3. Subs. by s. 10, *ibid.*, for “agreed with the addressee” (w.e.f. 27-10-2009).

(2) Save as otherwise agreed between the originator and the addressee, the time of receipt of an electronic record shall be determined as follows, namely:—

(a) if the addressee has designated a computer resource for the purpose of receiving electronic records,—

(i) receipt occurs at the time when the electronic record enters the designated computer resource; or

(ii) if the electronic record is sent to a computer resource of the addressee that is not the designated computer resource, receipt occurs at the time when the electronic record is retrieved by the addressee;

(b) if the addressee has not designated a computer resource along with specified timings, if any, receipt occurs when the electronic record enters the computer resource of the addressee.

(3) Save as otherwise agreed to between the originator and the addressee, an electronic record is deemed to be despatched at the place where the originator has his place of business, and is deemed to be received at the place where the addressee has his place of business.

(4) The provisions of sub-section (2) shall apply notwithstanding that the place where the computer resource is located may be different from the place where the electronic record is deemed to have been received under sub-section (3).

(5) For the purposes of this section,—

(a) if the originator or the addressee has more than one place of business, the principal place of business, shall be the place of business;

(b) if the originator or the addressee does not have a place of business, his usual place of residence shall be deemed to be the place of business;

(c) “usual place of residence”, in relation to a body corporate, means the place where it is registered.

CHAPTER V

SECURE ELECTRONIC RECORDS AND SECURE¹[ELECTRONIC SIGNATURE]

14. Secure electronic record.—Where any security procedure has been applied to an electronic record at a specific point of time, then such record shall be deemed to be a secure electronic record from such point of time to the time of verification.

²[15. Secure electronic signature.]—An electronic signature shall be deemed to be a secure electronic signature if—

(i) the signature creation data, at the time of affixing signature, was under the exclusive control of signatory and no other person; and

(ii) the signature creation data was stored and affixed in such exclusive manner as may be prescribed.

Explanation.—In case of digital signature, the “signature creation data” means the private key of the subscriber.

16. Security procedures and practices.—The Central Government may, for the purposes of sections 14 and 15, prescribe the security procedures and practices:

Provided that in prescribing such security procedures and practices, the Central Government shall have regard to the commercial circumstances, nature of transactions and such other related factors as it may consider appropriate.]

CHAPTER VI

REGULATION OF CERTIFYING AUTHORITIES

17. Appointment of Controller and other officers.—(1) The Central Government may, by notification in the Official Gazette, appoint a Controller of Certifying Authorities for the purposes of this Act and may also by the same or subsequent notification appoint such number of Deputy Controllers³[, Assistant Controllers, other officers and employees] as it deems fit.

1. Subs. by Act 10 of 2009, s. 2, for “digital signatures” (w.e.f. 27-10-2009).

2. Subs. by s 11, *ibid.*, for sections 15 and 16 (w.e.f. 27-10-2009).

3. Subs. by s.12, *ibid.*, for “and Assistant Controllers” (w.e.f. 27-10-2009).

(2) The Controller shall discharge his functions under this Act subject to the general control and directions of the Central Government.

(3) The Deputy Controllers and Assistant Controllers shall perform the functions assigned to them by the Controller under the general superintendence and control of the Controller.

(4) The qualifications, experience and terms and conditions of service of Controller, Deputy Controllers¹[,Assistant Controllers, other officers and employees] shall be such as may be prescribed by the Central Government.

(5) The Head Office and Branch Office of the office of the Controller shall be at such places as the Central Government may specify, and these may be established at such places as the Central Government may think fit.

(6) There shall be a seal of the Office of the Controller.

18. Functions of Controller.—The Controller may perform all or any of the following functions, namely:—

(a) exercising supervision over the activities of the Certifying Authorities;

(b) certifying public keys of the Certifying Authorities;

(c) laying down the standards to be maintained by the Certifying Authorities;

(d) specifying the qualifications and experience which employees of the Certifying Authority should possess;

(e) specifying the conditions subject to which the Certifying Authorities shall conduct their business;

(f) specifying the contents of written, printed or visual materials and advertisements that may be distributed or used in respect of a²[electronic signature] Certificate and the public key;

(g) specifying the form and content of a²[electronic signature] Certificate and the key;

(h) specifying the form and manner in which accounts shall be maintained by the Certifying Authorities;

(i) specifying the terms and conditions subject to which auditors may be appointed and the remuneration to be paid to them;

(j) facilitating the establishment of any electronic system by a Certifying Authority either solely or jointly with other Certifying Authorities and regulation of such systems;

(k) specifying the manner in which the Certifying Authorities shall conduct their dealings with the subscribers;

(l) resolving any conflict of interests between the Certifying Authorities and the subscribers;

(m) laying down the duties of the Certifying Authorities;

(n) maintaining a data base containing the disclosure record of every Certifying Authority containing such particulars as may be specified by regulations, which shall be accessible to public.

19. Recognition of foreign Certifying Authorities.—(1) Subject to such conditions and restrictions as may be specified by regulations, the Controller may with the previous approval of the Central Government, and by notification in the Official Gazette, recognise any foreign Certifying Authority as a Certifying Authority for the purposes of this Act.

(2) Where any Certifying Authority is recognised under sub-section (1), the²[electronic signature] Certificate issued by such Certifying Authority shall be valid for the purposes of this Act.

(3) The Controller may, if he is satisfied that any Certifying Authority has contravened any of the conditions and restrictions subject to which it was granted recognition under sub-section (1) he may, for reasons to be recorded in writing, by notification in the Official Gazette, revoke such recognition.

1. Subs. by Act 10 of 2009, s. 12, for “Assistant Controllers” (w.e.f. 27-10-2009).

2. Subs. by s. 2, *ibid.*, for “Digital Signature” (w.e.f. 27-10-2009).

20. [Controller to act as repository.] Omitted by the Information Technology (Amendment) Act, 2008 (10 of 2009), s. 13 (w.e.f. 27-10-2009).

21. Licence to issue ¹[electronic signature] Certificates.—(1) Subject to the provisions of sub-section (2), any person may make an application, to the Controller, for a licence to issue ¹[electronic signature] Certificates.

(2) No licence shall be issued under sub-section (1), unless the applicant fulfils such requirements with respect to qualification, expertise, manpower, financial resources and other infrastructure facilities, which are necessary to issue ¹[electronic signature] Certificates as may be prescribed by the Central Government.

(3) A licence granted under this section shall—

- (a) be valid for such period as may be prescribed by the Central Government;
- (b) not be transferable or heritable;
- (c) be subject to such terms and conditions as may be specified by the regulations.

22. Application for licence.—(1) Every application for issue of a licence shall be in such form as may be prescribed by the Central Government.

(2) Every application for issue of a licence shall be accompanied by—

- (a) a certification practice statement;
- (b) a statement including the procedures with respect to identification of the applicant;
- (c) payment of such fees, not exceeding twenty-five thousand rupees as may be prescribed by the Central Government;
- (d) such other documents, as may be prescribed by the Central Government.

23. Renewal of licence.—An application for renewal of a licence shall be—

- (a) in such form;
- (b) accompanied by such fees, not exceeding five thousand rupees, as may be prescribed by the Central Government and shall be made not less than forty-five days before the date of expiry of the period of validity of the licence.

24. Procedure for grant or rejection of licence.—The Controller may, on receipt of an application under sub-section (1) of section 21, after considering the documents accompanying the application and such other factors, as he deems fit, grant the licence or reject the application:

Provided that no application shall be rejected under this section unless the applicant has been given a reasonable opportunity of presenting his case.

25. Suspension of licence.—(1) The Controller may, if he is satisfied after making such inquiry, as he may think fit, that a Certifying Authority has—

- (a) made a statement in, or in relation to, the application for the issue or renewal of the licence, which is incorrect or false in material particulars;
 - (b) failed to comply with the terms and conditions subject to which the licence was granted;
 - ²[(c) failed to maintain the procedures and standards specified in section 30;]
 - (d) contravened any provisions of this Act, rule, regulation or order made thereunder,
- revoke the licence:

Provided that no licence shall be revoked unless the Certifying Authority has been given a reasonable opportunity of showing cause against the proposed revocation.

(2) The Controller may, if he has reasonable cause to believe that there is any ground for revoking a licence under sub-section (1), by order suspend such licence pending the completion of any enquiry ordered by him:

1. Subs. by Act 10 of 2009, s. 2, for “Digital Signature” (w.e.f. 27-10-2009).

2. Subs. by notification No. S.O. 1015(E) (w.e.f. 19-9-2002).

Provided that no licence shall be suspended for a period exceeding ten days unless the Certifying Authority has been given a reasonable opportunity of showing cause against the proposed suspension.

(3) No Certifying Authority whose licence has been suspended shall issue any ¹[electronic signature] Certificate during such suspension.

26. Notice of suspension or revocation of licence.—(1) Where the licence of the Certifying Authority is suspended or revoked, the Controller shall publish notice of such suspension or revocation, as the case may be, in the data base maintained by him.

(2) Where one or more repositories are specified, the Controller shall publish notices of such suspension or revocation, as the case may be, in all such repositories:

Provided that the data base containing the notice of such suspension or revocation, as the case may be, shall be made available through a web site which shall be accessible round the clock:

Provided further that the Controller may, if he considers necessary, publicise the contents of data base in such electronic or other media, as he may consider appropriate.

27. Power to delegate.—The Controller may, in writing, authorise the Deputy Controller, Assistant Controller or any officer to exercise any of the powers of the Controller under this Chapter.

28. Power to investigate contraventions.—(1) The Controller or any officer authorised by him in this behalf shall take up for investigation any contravention of the provisions of this Act, rules or regulations made thereunder.

(2) The Controller or any officer authorised by him in this behalf shall exercise the like powers which are conferred on Income-tax authorities under Chapter XIII of the Income-tax Act, 1961 (43 of 1961), and shall exercise such powers, subject to such limitations laid down under that Act.

29. Access to computers and data.—(1) Without prejudice to the provisions of sub-section (1) of section 69, the Controller or any person authorised by him shall, if he has reasonable cause to suspect that ²[any contravention of the provisions of this Chapter] has been committed, have access to any computer system, any apparatus, data or any other material connected with such system, for the purpose of searching or causing a search to be made for obtaining any information or data contained in or available to such computer system.

(2) For the purposes of sub-section (1), the Controller or any person authorised by him may, by order, direct any person in charge of, or otherwise concerned with the operation of, the computer system, data apparatus or material, to provide him with such reasonable technical and other assistance as he may consider necessary.

30. Certifying Authority to follow certain procedures.—Every Certifying Authority shall,—

(a) make use of hardware, software and procedures that are secure from intrusion and misuse;

(b) provide a reasonable level of reliability in its services which are reasonably suited to the performance of intended functions;

(c) adhere to security procedures to ensure that the secrecy and privacy of the ¹[electronic signatures] are assured; ^{3***}

⁴[(ca) be the repository of all electronic signature Certificates issued under this Act;

(cb) publish information regarding its practices, electronic signature Certificates and current status of such certificates; and]

(d) observe such other standards as may be specified by regulations.

31. Certifying Authority to ensure compliance of the Act, etc.—Every Certifying Authority shall ensure that every person employed or otherwise engaged by it complies, in the course of his employment or engagement, with the provisions of this Act, rules, regulations and orders made thereunder.

1. Subs. by Act 10 of 2009, s. 2, for “Digital Signature” (w.e.f. 27-10-2009).

2. Subs. by s. 14, *ibid.*, for “any contravention of the provisions of this Act, rules and regulations made thereunder” (w.e.f. 27-10-2009).

3. The word “and” omitted by s. 15, *ibid.* (w.e.f. 27-10-2009).

4. Ins. by s. 15, *ibid.* (w.e.f. 27-10-2009).

32. Display of licence.—Every Certifying Authority shall display its licence at a conspicuous place of the premises in which it carries on its business.

33. Surrender of licence.—(1) Every Certifying Authority whose licence is suspended or revoked shall immediately after such suspension or revocation, surrender the licence to the Controller.

(2) Where any Certifying Authority fails to surrender a licence under sub-section (1), the person in whose favour a licence is issued, shall be guilty of an offence and shall be punished with imprisonment which may extend up to six months or a fine which may extend up to ten thousand rupees or with both.

34. Disclosure.—(1) Every Certifying Authority shall disclose in the manner specified by regulations—

(a) its ¹[electronic signature] Certificate ^{2***};

(b) any certification practice statement relevant thereto;

(c) notice of the revocation or suspension of its Certifying Authority certificate, if any; and

(d) any other fact that materially and adversely affects either the reliability of a ¹[electronic signature] Certificate, which that Authority has issued, or the Authority's ability to perform its services.

(2) Where in the opinion of the Certifying Authority any event has occurred or any situation has arisen which may materially and adversely affect the integrity of its computer system or the conditions subject to which a ¹[electronic signature] Certificate was granted, then, the Certifying Authority shall—

(a) use reasonable efforts to notify any person who is likely to be affected by that occurrence; or

(b) act in accordance with the procedure specified in its certification practice statement to deal with such event or situation.

CHAPTERVII

¹[ELECTRONIC SIGNATURE] CERTIFICATES

35. Certifying authority to issue ¹[electronic signature] Certificate.—(1) Any person may make an application to the Certifying Authority for the issue of a ¹[electronic signature] Certificate in such form as may be prescribed by the Central Government.

(2) Every such application shall be accompanied by such fee not exceeding twenty-five thousand rupees as may be prescribed by the Central Government, to be paid to the Certifying Authority:

Provided that while prescribing fees under sub-section (2) different fees may be prescribed for different classes of applicants.

(3) Every such application shall be accompanied by a certification practice statement or where there is no such statement, a statement containing such particulars, as may be specified by regulations.

(4) On receipt of an application under sub-section (1), the Certifying Authority may, after consideration of the certification practice statement or the other statement under sub-section (3) and after making such enquiries as it may deem fit, grant the ¹[electronic signature] Certificate or for reasons to be recorded in writing, reject the application:

^{3*}

*

*

*

*

⁴[Provided] that no application shall be rejected unless the applicant has been given a reasonable opportunity of showing cause against the proposed rejection.

36. Representations upon issuance of Digital Signature Certificate.—A Certifying Authority while issuing a Digital Signature Certificate shall certify that—

(a) it has complied with the provisions of this Act and the rules and regulations made thereunder;

(b) it has published the Digital Signature Certificate or otherwise made it available to such person relying on it and the subscriber has accepted it;

1. Subs. by Act 10 of 2009, s. 2, for “Digital Signature” (w.e.f. 27-10-2009).

2. Certain words omitted by s. 16, *ibid.* (w.e.f. 27-10-2009).

3. The first proviso omitted by s. 17, *ibid.* (w.e.f. 27-10-2009).

4. Subs. by s. 17, *ibid.*, for “Provided further” (w.e.f. 27-10-2009).

(c) the subscriber holds the private key corresponding to the public key, listed in the Digital Signature Certificate;

¹[(ca) the subscriber holds a private key which is capable of creating a digital signature;

(cb) the public key to be listed in the certificate can be used to verify a digital signature affixed by the private key held by the subscriber;]

(d) the subscriber's public key and private key constitute a functioning key pair;

(e) the information contained in the Digital Signature Certificate is accurate; and

(f) it has no knowledge of any material fact, which if it had been included in the Digital Signature Certificate would adversely affect the reliability of the representations in clauses (a) to (d).

37. Suspension of Digital Signature Certificate.—(1) Subject to the provisions of sub-section (2), the Certifying Authority which has issued a Digital Signature Certificate may suspend such Digital Signature Certificate,—

(a) on receipt of a request to that effect from—

(i) the subscriber listed in the Digital Signature Certificate; or

(ii) any person duly authorised to act on behalf of that subscriber;

(b) if it is of opinion that the Digital Signature Certificate should be suspended in public interest.

(2) A Digital Signature Certificate shall not be suspended for a period exceeding fifteen days unless the subscriber has been given an opportunity of being heard in the matter.

(3) On suspension of a Digital Signature Certificate under this section, the Certifying Authority shall communicate the same to the subscriber.

38. Revocation of Digital Signature Certificate.—(1) A Certifying Authority may revoke a Digital Signature Certificate issued by it—

(a) where the subscriber or any other person authorised by him makes a request to that effect; or

(b) upon the death of the subscriber; or

(c) upon the dissolution of the firm or winding up of the company where the subscriber is a firm or a company.

(2) Subject to the provisions of sub-section (3) and without prejudice to the provisions of sub-section (1), a Certifying Authority may revoke a Digital Signature Certificate which has been issued by it at any time, if it is of opinion that—

(a) a material fact represented in the Digital Signature Certificate is false or has been concealed;

(b) a requirement for issuance of the Digital Signature Certificate was not satisfied;

(c) the Certifying Authority's private key or security system was compromised in a manner materially affecting the Digital Signature Certificate's reliability;

(d) the subscriber has been declared insolvent or dead or where a subscriber is a firm or a company, which has been dissolved, wound-up or otherwise ceased to exist.

(3) A Digital Signature Certificate shall not be revoked unless the subscriber has been given an opportunity of being heard in the matter.

(4) On revocation of a Digital Signature Certificate under this section, the Certifying Authority shall communicate the same to the subscriber.

39. Notice of suspension or revocation.—(1) Where a Digital Signature Certificate is suspended or revoked under section 37 or section 38, the Certifying Authority shall publish a notice of such suspension or revocation, as the case may be, in the repository specified in the Digital Signature Certificate for publication of such notice.

1. Ins. by Act 10 of 2009, s. 18 (w.e.f. 27-10-2009).

(2) Where one or more repositories are specified, the Certifying Authority shall publish notices of such suspension or revocation, as the case may be, in all such repositories.

CHAPTER VIII

DUTIES OF SUBSCRIBERS

40. Generating key pair.—Where any Digital Signature Certificate the public key of which corresponds to the private key of that subscriber which is to be listed in the Digital Signature Certificate has been accepted by a subscriber,^{1***} the subscriber shall generate²[that key] pair by applying the security procedure.

³[**40A. Duties of subscriber of Electronic Signature Certificate.**—In respect of Electronic Signature Certificate the subscriber shall perform such duties as may be prescribed.]

41. Acceptance of Digital Signature Certificate.—(1) A subscriber shall be deemed to have accepted a Digital Signature Certificate if he publishes or authorises the publication of a Digital Signature Certificate—

(a) to one or more persons;

(b) in a repository; or

otherwise demonstrates his approval of the Digital Signature Certificate in any manner.

(2) By accepting a Digital Signature Certificate the subscriber certifies to all who reasonably rely on the information contained in the Digital Signature Certificate that—

(a) the subscriber holds the private key corresponding to the public key listed in the Digital Signature Certificate and is entitled to hold the same;

(b) all representations made by the subscriber to the Certifying Authority and all material relevant to the information contained in the Digital Signature Certificate are true;

(c) all information in the Digital Signature Certificate that is within the knowledge of the subscriber is true.

42. Control of private key.—(1) Every subscriber shall exercise reasonable care to retain control of the private key corresponding to the public key listed in his Digital Signature Certificate and take all steps to prevent its disclosure^{4***}.

(2) If the private key corresponding to the public key listed in the Digital Signature Certificate has been compromised, then, the subscriber shall communicate the same without any delay to the Certifying Authority in such manner as may be specified by the regulations.

Explanation.—For the removal of doubts, it is hereby declared that the subscriber shall be liable till he has informed the Certifying Authority that the private key has been compromised.

CHAPTER IX

⁵[PENALTIES, COMPENSATION AND ADJUDICATION]

43. ⁶[Penalty and compensation] for damage to computer, computer system, etc.—If any person without permission of the owner or any other person who is in charge of a computer, computer system or computer network,—

(a) accesses or secures access to such computer, computer system or computer network⁷[or computer resource];

1. The word “then” omitted by notification No. S.O. 1015(E) (w.e.f. 19-9-2002).

2. Subs. *ibid.*, for “the key” (w.e.f. 19-9-2002).

3. Ins. by Act 10 of 2009, s. 19 (w.e.f. 27-10-2009).

4. The words “to a person not authorised to affix the digital signature of the subscriber” omitted by notification No. S.O.1015(E) (w.e.f. 19-9-2002).

5. Subs. by Act 10 of 2009, s. 20, for “PENALTIES AND ADJUDICATION” (w.e.f. 27-10-2009).

6. Subs. by s. 21, *ibid.*, for “Penalty” (w.e.f. 27-10-2009).

7. Ins. by s. 21, *ibid.* (w.e.f. 27-10-2009).

(b) downloads, copies or extracts any data, computer data base or information from such computer, computer system or computer network including information or data held or stored in any removable storage medium;

(c) introduces or causes to be introduced any computer contaminant or computer virus into any computer, computer system or computer network;

(d) damages or causes to be damaged any computer, computer system or computer network, data, computer data base or any other programmes residing in such computer, computer system or computer network;

(e) disrupts or causes disruption of any computer, computer system or computer network;

(f) denies or causes the denial of access to any person authorised to access any computer, computer system or computer network by any means;

(g) provides any assistance to any person to facilitate access to a computer, computer system or computer network in contravention of the provisions of this Act, rules or regulations made thereunder;

(h) charges the services availed of by a person to the account of another person by tampering with or manipulating any computer, computer system, or computer network;

¹[(i) destroys, deletes or alters any information residing in a computer resource or diminishes its value or utility or affects it injuriously by any means;

(j) steal, conceal, destroys or alters or causes any person to steal, conceal, destroy or alter any computer source code used for a computer resource with an intention to cause damage;]

²[he shall be liable to pay damages by way of compensation to the person so affected.]

Explanation.—For the purposes of this section,—

(i) “computer contaminant” means any set of computer instructions that are designed—

(a) to modify, destroy, record, transmit data or programme residing within a computer, computer system or computer network; or

(b) by any means to usurp the normal operation of the computer, computer system, or computer network;

(ii) “computer data-base” means a representation of information, knowledge, facts, concepts or instructions in text, image, audio, video that are being prepared or have been prepared in a formalised manner or have been produced by a computer, computer system or computer network and are intended for use in a computer, computer system or computer network;

(iii) “computer virus” means any computer instruction, information, data or programme that destroys, damages, degrades or adversely affects the performance of a computer resource or attaches itself to another computer resource and operates when a programme, data or instruction is executed or some other event takes place in that computer resource;

(iv) “damage” means to destroy, alter, delete, add, modify or rearrange any computer resource by any means.

¹[(v) “computer source code” means the listing of programme, computer commands, design and layout and programme analysis of computer resource in any form.]

³[43A. Compensation for failure to protect data.]—Where a body corporate, possessing, dealing or handling any sensitive personal data or information in a computer resource which it owns, controls or operates, is negligent in implementing and maintaining reasonable security practices and procedures and thereby causes wrongful loss or wrongful gain to any person, such body corporate shall be liable to pay damages by way of compensation to the person so affected.

1. Ins. by Act 10 of 2009, s. 21 (w.e.f. 27-10-2009).

2. Subs. by s. 21, *ibid.*, for certain words (w.e.f. 27-10-2009).

3. Ins. by s. 22, *ibid.* (w.e.f. 27-10-2009).

Explanation.—For the purposes of this section,—

(i) “body corporate” means any company and includes a firm, sole proprietorship or other association of individuals engaged in commercial or professional activities;

(ii) “reasonable security practices and procedures” means security practices and procedures designed to protect such information from unauthorised access, damage, use, modification, disclosure or impairment, as may be specified in an agreement between the parties or as may be specified in any law for the time being in force and in the absence of such agreement or any law, such reasonable security practices and procedures, as may be prescribed by the Central Government in consultation with such professional bodies or associations as it may deem fit;

(iii) “sensitive personal data or information” means such personal information as may be prescribed by the Central Government in consultation with such professional bodies or associations as it may deem fit.]

44. Penalty for failure to furnish information, return, etc.—If any person who is required under this Act or any rules or regulations made thereunder to—

(a) furnish any document, return or report to the Controller or the Certifying Authority fails to furnish the same, he shall be liable to a penalty not exceeding one lakh and fifty thousand rupees for each such failure;

(b) file any return or furnish any information, books or other documents within the time specified therefor in the regulations fails to file return or furnish the same within the time specified therefor in the regulations, he shall be liable to a penalty not exceeding five thousand rupees for every day during which such failure continues;

(c) maintain books of account or records, fails to maintain the same, he shall be liable to a penalty not exceeding ten thousand rupees for every day during which the failure continues.

45. Residuary penalty.—Whoever contravenes any rules or regulations made under this Act, for the contravention of which no penalty has been separately provided, shall be liable to pay a compensation not exceeding twenty-five thousand rupees to the person affected by such contravention or a penalty not exceeding twenty-five thousand rupees.

46. Power to adjudicate.—(1) For the purpose of adjudging under this Chapter whether any person has committed a contravention of any of the provisions of this Act or of any rule, regulation,¹ [direction or order made thereunder which renders him liable to pay penalty or compensation,] the Central Government shall, subject to the provisions of sub-section (3), appoint any officer not below the rank of a Director to the Government of India or an equivalent officer of a State Government to be an adjudicating officer for holding an inquiry in the manner prescribed by the Central Government.

²[(IA) The adjudicating officer appointed under sub-section (1) shall exercise jurisdiction to adjudicate matters in which the claim for injury or damage does not exceed rupees five crore:

Provided that the jurisdiction in respect of the claim for injury or damage exceeding rupees five crores shall vest with the competent court.]

(2) The adjudicating officer shall, after giving the person referred to in sub-section (1) a reasonable opportunity for making representation in the matter and if, on such inquiry, he is satisfied that the person has committed the contravention, he may impose such penalty or award such compensation as he thinks fit in accordance with the provisions of that section.

(3) No person shall be appointed as an adjudicating officer unless he possesses such experience in the field of Information Technology and legal or judicial experience as may be prescribed by the Central Government.

(4) Where more than one adjudicating officers are appointed, the Central Government shall specify by order the matters and places with respect to which such officers shall exercise their jurisdiction.

(5) Every adjudicating officer shall have the powers of a civil court which are conferred on the “Appellate Tribunal” under sub-section (2) of section 58, and—

1. Subs. by Act 10 of 2009, s. 23, for “direction or order made thereunder” (w.e.f. 27-10-2009).

2. Ins. by s. 23, *ibid.* (w.e.f. 27-10-2009).

(a) all proceedings before it shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860);

(b) shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974);

¹[(c) shall be deemed to be a civil court for purposes of Order XXI of the Civil Procedure Code, 1908 (5 of 1908).]

47. Factors to be taken into account by the adjudicating officer.—While adjudging the quantum of compensation under this Chapter, the adjudicating officer shall have due regard to the following factors, namely:—

(a) the amount of gain of unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to any person as a result of the default;

(c) the repetitive nature of the default.

CHAPTER X

THE ²[APPELLATE TRIBUNAL]

48. ³[Appellate Tribunal].—⁴(1) The Telecom Disputes Settlement and Appellate Tribunal established under section 14 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017 (7 of 2017), be the Appellate Tribunal for the purposes of this Act and the said Appellate Tribunal shall exercise the jurisdiction, powers and authority conferred on it by or under this Act.]

(2) The Central Government ⁵[shall specify, by notification] the matters and places in relation to which the ²[Appellate Tribunal] may exercise jurisdiction.

⁶[49. [Composition of Cyber Appellate Tribunal.] Omitted by the Finance Act, 2017 (7 of 2017), s. 169 (w.e.f. 26-5-2017).

50. [Qualifications for appointment as Chairperson and Members of Cyber Appellate Tribunal.] Omitted by s. 169, *ibid.* (w.e.f. 26-5-2017).

51. [Term of office, conditions of service, etc., of Chairperson and Members.] Omitted by s. 169, *ibid.* (w.e.f. 26-5-2017).

52. [Salary, allowances and other terms and conditions of service of Chairperson and Members.] Omitted by s. 169, *ibid.* (w.e.f. 26-5-2017).

52A. [Powers of superintendence, direction, etc.] Omitted by s. 169, *ibid.* (w.e.f. 26-5-2017).

52B. [Distribution of business among Benches.] Omitted by s. 169, *ibid.* (w.e.f. 26-5-2017).

52C. [Power of Chairperson to transfer cases.] Omitted by s. 169, *ibid.* (w.e.f. 26-5-2017).

52D. Decision by majority.—If the Members of a Bench consisting of two Members differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairperson of the ²[Appellate Tribunal] who shall hear the point or points himself and such point or points shall be decided according to the opinion of the majority of the Members who have heard the case, including those who first heard it.]

53. [Filling up of vacancies.] Omitted by the Finance Act, 2017 (7 of 2017), s. 169 (w.e.f. 26-5-2017).

54. [Resignation and removal.] Omitted by s. 169, *ibid.* (w.e.f. 26-5-2017).

55. Orders constituting Appellate Tribunal to be final and not to invalidate its proceedings.—No order of the Central Government appointing any person as the ⁷[Chairperson or the Member] of a ²[Appellate Tribunal] shall be called in question in any manner and no act or proceeding before a

1. Ins. by Act 10 of 2009, s. 23 (w.e.f. 27-10-2009).

2. Subs. by Act 7 of 2017, s. 169, for “Cyber Appellate Tribunal” (w.e.f. 26-5-2017)

3. Subs. by s. 169, *ibid.*, for “Establishment of Appellate Tribunal” (w.e.f. 26-5-2017).

4. Subs. by s. 169, *ibid.*, for sub-section (1) (w.e.f. 26-5-2017).

5. Subs. by s. 169, *ibid.*, for “shall also specify, in the notification referred to in sub-section (1)” (w.e.f. 26-5-2017).

6. Subs. by Act 10 of 2009, s. 26, for sections 49 to 52 (w.e.f. 27-10-2009).

7. Subs. by s. 29, *ibid.*, for “Presiding Officer” (w.e.f. 27-10-2009).

¹[Appellate Tribunal] shall be called in question in any manner on the ground merely of any defect in the constitution of a ¹[Appellate Tribunal].

56. [Staff of the Cyber Appellate Tribunal.] *Omitted by the Finance Act, 2017 (7 of 2017), s. 169 (w.e.f. 26-5-2017).*

57. Appeal to ¹[Appellate Tribunal].—(1) Save as provided in sub-section (2), any person aggrieved by an order made by controller or an adjudicating officer under this Act may prefer an appeal to a ¹[Appellate Tribunal] having jurisdiction in the matter.

(2) No appeal shall lie to the ¹[Appellate Tribunal] from an order made by an adjudicating officer with the consent of the parties.

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Controller or the adjudicating officer is received by the person aggrieved and it shall be in such form and be accompanied by such fee as may be prescribed:

Provided that the ¹[Appellate Tribunal] may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), the ¹[Appellate Tribunal] may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The ¹[Appellate Tribunal] shall send a copy of every order made by it to the parties to the appeal and to the concerned Controller or adjudicating officer.

(6) The appeal filed before the ¹[Appellate Tribunal] under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

58. Procedure and powers of the Appellate Tribunal.—(1) The ¹[Appellate Tribunal] shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the ¹[Appellate Tribunal] shall have powers to regulate its own procedure including the place at which it shall have its sittings.

(2) The ¹[Appellate Tribunal] shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents or other electronic records;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte*;
- (g) any other matter which may be prescribed.

(3) Every proceeding before the ¹[Appellate Tribunal] shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and the ¹[Appellate Tribunal] shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

59. Right to legal representation.—The appellant may either appear in person or authorise one or more legal practitioners or any of its officers to present his or its case before the ¹[Appellate Tribunal].

60. Limitation.—The provisions of the Limitation Act, 1963 (36 of 1963), shall, as far as may be, apply to an appeal made to the ¹[Appellate Tribunal].

1. Subs. by Act 7 of 2017, s. 169, for “Cyber Appellate Tribunal” (w.e.f. 26-5-2017)

61. Civil court not to have jurisdiction.—No court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under this Act or the¹[Appellate Tribunal] constituted under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

62. Appeal to High Court.—Any person aggrieved by any decision or order of the¹[Appellate Tribunal] may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the¹[Appellate Tribunal] to him on any question of fact or law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

63. Compounding of contraventions.—(1) Any contravention under this²[Act] may, either before or after the institution of adjudication proceedings, be compounded by the Controller or such other officer as may be specially authorised by him in this behalf or by the adjudicating officer, as the case may be, subject to such conditions as the Controller or such other officer or the adjudicating officer may specify:

Provided that such sum shall not, in any case, exceed the maximum amount of the penalty which may be imposed under this Act for the contravention so compounded.

(2) Nothing in sub-section (1) shall apply to a person who commits the same or similar contravention within a period of three years from the date on which the first contravention, committed by him, was compounded.

Explanation.—For the purposes of this sub-section, any second or subsequent contravention committed after the expiry of a period of three years from the date on which the contravention was previously compounded shall be deemed to be a first contravention.

(3) Where any contravention has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the person guilty of such contravention in respect of the contravention so compounded.

64. Recovery of³[penalty or compensation].—A⁴[penalty imposed or compensation awarded] under this Act, if it is not paid, shall be recovered as an arrear of land revenue and the licence or the⁵[electronic signature] Certificate, as the case may be, shall be suspended till the penalty is paid.

CHAPTER XI

OFFENCES

65. Tampering with computer source documents.—Whoever knowingly or intentionally conceals, destroys or alters or intentionally or knowingly causes another to conceal, destroy, or alter any computer source code used for a computer, computer programme, computer system or computer network, when the computer source code is required to be kept or maintained by law for the time being in force, shall be punishable with imprisonment up to three years, or with fine which may extend up to two lakh rupees, or with both.

Explanation.—For the purposes of this section, “computer source code” means the listing of programmes, computer commands, design and layout and programme analysis of computer resource in any form.

⁶[66. Computer related offences.]—If any person, dishonestly or fraudulently, does any act referred to in section 43, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five lakh rupees or with both.

1. Subs. by Act 7 of 2017, s. 169, for “Cyber Appellate Tribunal” (w.e.f. 26-5-2017).
2. Subs. by notification No. S.O. 1015(E) (w.e.f. 19-9-2002).
3. Subs. by Act 10 of 2009, s. 31, for “penalty” (w.e.f. 27-10-2009).
4. Subs. by s. 31, *ibid.*, for “penalty imposed” (w.e.f. 27-10-2009).
5. Subs. by s. 2, *ibid.*, for “Digital Signature” (w.e.f. 27-10-2009).
6. Subs. by s. 32, *ibid.*, for sections 66 and 67 (w.e.f. 27-10-2009).

Explanation.—For the purposes of this section,—

(a) the word “dishonestly” shall have the meaning assigned to it in section 24 of the Indian Penal Code (45 of 1860);

(b) the word “fraudulently” shall have the meaning assigned to it in section 25 of the Indian Penal Code (45 of 1860).

[66A. Punishment for sending offensive messages through communication service, etc.]—Any person who sends, by means of a computer resource or a communication device,—

(a) any information that is grossly offensive or has menacing character; or

(b) any information which he knows to be false, but for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill will, persistently by making use of such computer resource or a communication device;

(c) any electronic mail or electronic mail message for the purpose of causing annoyance or inconvenience or to deceive or to mislead the addressee or recipient about the origin of such messages,

shall be punishable with imprisonment for a term which may extend to three years and with fine.

Explanation.—For the purposes of this section, terms “electronic mail” and “electronic mail message” means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, image, audio, video and any other electronic record, which may be transmitted with the message.]

66B. Punishment for dishonestly receiving stolen computer resource or communication device.—Whoever dishonestly receive or retains any stolen computer resource or communication device knowing or having reason to believe the same to be stolen computer resource or communication device, shall be punished with imprisonment of either description for a term which may extend to three years or with fine which may extend to rupees one lakh or with both.

66C. Punishment for identity theft.—Whoever, fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other person, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine which may extend to rupees one lakh.

66D. Punishment for cheating by personation by using computer resource.—Whoever, by means of any communication device or computer resource cheats by personation, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine which may extend to one lakh rupees.

66E. Punishment for violation of privacy.—Whoever, intentionally or knowingly captures, publishes or transmits the image of a private area of any person without his or her consent, under circumstances violating the privacy of that person, shall be punished with imprisonment which may extend to three years or with fine not exceeding two lakh rupees, or with both.

Explanation.—For the purposes of this section—

(a) “transmit” means to electronically send a visual image with the intent that it be viewed by a person or persons;

(b) “capture”, with respect to an image, means to videotape, photograph, film or record by any means;

(c) “private area” means the naked or undergarment clad genitals, public area, buttocks or female breast;

(d) “publishes” means reproduction in the printed or electronic form and making it available for public;

1. Section 66A has been struck down by Supreme Court’s Order dated 24th March, 2015 in the Shreya Singhal vs. Union of India, AIR 2015 SC. 1523.

(e) "under circumstances violating privacy" means circumstances in which a person can have a reasonable expectation that—

(i) he or she could disrobe in privacy, without being concerned that an image of his private area was being captured; or

(ii) any part of his or her private area would not be visible to the public, regardless of whether that person is in a public or private place.

66F. Punishment for cyber terrorism.—(1) Whoever,—

(A) with intent to threaten the unity, integrity, security or sovereignty of India or to strike terror in the people or any section of the people by—

(i) denying or cause the denial of access to any person authorised to access computer resource; or

(ii) attempting to penetrate or access a computer resource without authorisation or exceeding authorised access; or

(iii) introducing or causing to introduce any computer contaminant,

and by means of such conduct causes or is likely to cause death or injuries to persons or damage to or destruction of property or disrupts or knowing that it is likely to cause damage or disruption of supplies or services essential to the life of the community or adversely affect the critical information infrastructure specified under section 70; or

(B) knowingly or intentionally penetrates or accesses a computer resource without authorisation or exceeding authorised access, and by means of such conduct obtains access to information, data or computer data base that is restricted for reasons of the security of the State or foreign relations; or any restricted information, data or computer data base, with reasons to believe that such information, data or computer data base so obtained may be used to cause or likely to cause injury to the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence, or to the advantage of any foreign nation, group of individuals or otherwise,
commits the offence of cyber terrorism.

(2) Whoever commits or conspires to commit cyber terrorism shall be punishable with imprisonment which may extend to imprisonment for life.

67. Punishment for publishing or transmitting obscene material in electronic form.—Whoever publishes or transmits or causes to be published or transmitted in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to three years and with fine which may extend to five lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to five years and also with fine which may extend to ten lakh rupees.

67A. Punishment for publishing or transmitting of material containing sexually explicit act, etc., in electronic form.—Whoever publishes or transmits or causes to be published or transmitted in the electronic form any material which contains sexually explicit act or conduct shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten lakh rupees.

67B. Punishment for publishing or transmitting of material depicting children in sexually explicit act, etc., in electronic form.—Whoever,—

(a) publishes or transmits or causes to be published or transmitted material in any electronic form which depicts children engaged in sexually explicit act or conduct; or

(b) creates text or digital images, collects, seeks, browses, downloads, advertises, promotes, exchanges or distributes material in any electronic form depicting children in obscene or indecent or sexually explicit manner; or

- (c) cultivates, entices or induces children to online relationship with one or more children for and on sexually explicit act or in a manner that may offend a reasonable adult on the computer resource; or
- (d) facilitates abusing children online, or
- (e) records in any electronic form own abuse or that of others pertaining to sexually explicit act with children,

shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten lakh rupees:

Provided that provisions of section 67, section 67A and this section does not extend to any book, pamphlet, paper, writing, drawing, painting representation or figure in electronic form—

- (i) the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, writing, drawing, painting representation or figure is the interest of science, literature, art or learning or other objects of general concern; or
- (ii) which is kept or used for *bona fide* heritage or religious purposes.

Explanation—For the purposes of this section, “children” means a person who has not completed the age of 18 years.

67C. Preservation and retention of information by intermediaries.—(1) Intermediary shall preserve and retain such information as may be specified for such duration and in such manner and format as the Central Government may prescribe.

(2) any intermediary who intentionally or knowingly contravenes the provisions of sub-section (1) shall be punished with an imprisonment for a term which may extend to three years and also be liable to fine.]

68. Power of Controller to give directions.—(1) The Controller may, by order, direct a Certifying Authority or any employee of such Authority to take such measures or cease carrying on such activities as specified in the order if those are necessary to ensure compliance with the provisions of this Act, rules or any regulations made thereunder.

¹[(2) Any person who intentionally or knowingly fails to comply with any order under sub-section (1) shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding two years or a fine not exceeding one lakh rupees or with both.]

²[69. Power to issue directions for interception or monitoring or decryption of any information through any computer resource.—(1) Where the Central Government or a State Government or any of its officers specially authorised by the Central Government or the State Government, as the case may be, in this behalf may, if satisfied that it is necessary or expedient so to do, in the interest of the sovereignty or integrity of India, defence of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above or for investigation of any offence, it may subject to the provisions of sub-section (2), for reasons to be recorded in writing, by order, direct any agency of the appropriate Government to intercept, monitor or decrypt or cause to be intercepted or monitored or decrypted any information generated, transmitted, received or stored in any computer resource.

(2) The procedure and safeguards subject to which such interception or monitoring or decryption may be carried out, shall be such as may be prescribed.

(3) The subscriber or intermediary or any person in-charge of the computer resource shall, when called upon by any agency referred to in sub-section (1), extend all facilities and technical assistance to—

- (a) provide access to or secure access to the computer resource generating, transmitting, receiving or storing such information; or
- (b) intercept, monitor, or decrypt the information, as the case may be; or
- (c) provide information stored in computer resource.

1. Subs. by Act 10 of 2009, s. 33, for sub-section (2) (w.e.f. 27-10-2009).

2. Subs. by s. 34, *ibid.*, for section 69 (w.e.f. 27-10-2009).

(4) The subscriber or intermediary or any person who fails to assist the agency referred to in sub-section (3) shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

69A. Power to issue directions for blocking for public access of any information through any computer resource.—(1) Where the Central Government or any of its officers specially authorised by it in this behalf is satisfied that it is necessary or expedient so to do, in the interest of sovereignty and integrity of India, defence of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above, it may subject to the provisions of sub-section (2), for reasons to be recorded in writing, by order, direct any agency of the Government or intermediary to block for access by the public or cause to be blocked for access by the public any information generated, transmitted, received, stored or hosted in any computer resource.

(2) The procedure and safeguards subject to which such blocking for access by the public may be carried out, shall be such as may be prescribed.

(3) The intermediary who fails to comply with the direction issued under sub-section (1) shall be punished with an imprisonment for a term which may extend to seven years and also be liable to fine.

69B. Power to authorise to monitor and collect traffic data or information through any computer resource for cyber security.—(1) The Central Government may, to enhance cyber security and for identification, analysis and prevention of intrusion or spread of computer contaminant in the country, by notification in the Official Gazette, authorise any agency of the Government to monitor and collect traffic data or information generated, transmitted, received or stored in any computer resource.

(2) The intermediary or any person in-charge or the computer resource shall, when called upon by the agency which has been authorised under sub-section (1), provide technical assistance and extend all facilities to such agency to enable online access or to secure and provide online access to the computer resource generating, transmitting, receiving or storing such traffic data or information.

(3) The procedure and safeguards for monitoring and collecting traffic data or information, shall be such as may be prescribed.

(4) Any intermediary who intentionally or knowingly contravenes the provisions of sub-section (2) shall be punished with an imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.—For the purposes of this section,—

(i) “computer contaminant” shall have the meaning assigned to it in section 43;

(ii) “traffic data” means any data identifying or purporting to identify any person, computer system or computer network or location to or from which the communication is or may be transmitted and includes communications origin, destination, route, time, data, size, duration or type of underlying service and any other information.]

70. Protected system.—¹[(1) The appropriate Government may, by notification in the Official Gazette, declare any computer resource which directly or indirectly affects the facility of Critical Information Infrastructure, to be a protected system.

Explanation.—For the purposes of this section, “Critical Information Infrastructure” means the computer resource, the incapacitation or destruction of which, shall have debilitating impact on national security, economy, public health or safety.]

(2) The appropriate Government may, by order in writing, authorise the persons who are authorised to access protected systems notified under sub-section (1).

(3) Any person who secures access or attempts to secure access to a protected system in contravention of the provisions of this section shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

²[(4) The Central Government shall prescribe the information security practices and procedures for such protected system.]

³[70A. National nodal agency.—(1) The Central Government may, by notification published in the Official Gazette, designate any organisation of the Government as the national nodal agency in respect of Critical Information Infrastructure Protection.

1. Subs. by Act 10 of 2009, s. 35, for sub-section (1) (w.e.f. 27-10-2009).

2. Ins. by s. 35, *ibid.* (w.e.f. 27-10-2009).

3. Ins. by s. 36, *ibid.* (w.e.f. 27-10-2009).

(2) The national nodal agency designated under sub-section (1) shall be responsible for all measures including Research and Development relating to protection of Critical Information Infrastructure.

(3) The manner of performing functions and duties of the agency referred to in sub-section (1) shall be such as may be prescribed.

70B. Indian Computer Emergency Response Team to serve as national agency for incident response.—(1) The Central Government shall, by notification in the Official Gazette, appoint an agency of the Government to be called the Indian Computer Emergency Response Team.

(2) The Central Government shall provide the agency referred to in sub-section (1) with a Director General and such other officers and employees as may be prescribed.

(3) The salary and allowances and terms and conditions of the Director-General and other officers and employees shall be such as may be prescribed.

(4) The Indian Computer Emergency Response Team shall serve as the national agency for performing the following functions in the area of cyber security,—

(a) collection, analysis and dissemination of information on cyber incidents;

(b) forecast and alerts of cyber security incidents;

(c) emergency measures for handling cyber security incidents;

(d) coordination of cyber incidents response activities;

(e) issue guidelines, advisories, vulnerability notes and white papers relating to information security practices, procedures, prevention, response and reporting of cyber incidents;

(f) such other functions relating to cyber security as may be prescribed.

(5) The manner of performing functions and duties of the agency referred to in sub-section (1) shall be such as may be prescribed.

(6) For carrying out the provisions of sub-section (4), the agency referred to in sub-section (1) may call for information and give direction to the service providers, intermediaries, data centres, body corporate and any other person.

(7) Any service provider, intermediaries, data centres, body corporate or person who fails to provide the information called for or comply with the direction under sub-section (6), shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees or with both.

(8) No court shall take cognizance of any offence under this section, except on a complaint made by an officer authorised in this behalf by the agency referred to in sub-section (1).]

71. Penalty for misrepresentation.—Whoever makes any misrepresentation to, or suppresses any material fact from the Controller or the Certifying Authority for obtaining any licence or¹[electronic signature] Certificate, as the case may be, shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both.

72. Penalty for Breach of confidentiality and privacy.—Save as otherwise provided in this Act or any other law for the time being in force, if any person who, in pursuance of any of the powers conferred under this Act, rules or regulations made thereunder, has secured access to any electronic record, book, register, correspondence, information, document or other material without the consent of the person concerned discloses such electronic record, book, register, correspondence, information, document or other material to any other person shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both.

2[72A. Punishment for disclosure of information in breach of lawful contract.]—Save as otherwise provided in this Act or any other law for the time being in force, any person including an intermediary who, while providing services under the terms of lawful contract, has secured access to any material containing personal information about another person, with the intent to cause or knowing that he is likely

1. Subs. by Act 10 of 2009, s. 2, for “Digital Signature” (w.e.f. 27-10-2009).

2. Ins. by s. 37, *ibid.* (w.e.f. 27-10-2009).

to cause wrongful loss or wrongful gain discloses, without the consent of the person concerned, or in breach of a lawful contract, such material to any other person, shall be punished with imprisonment for a term which may extend to three years, or with fine which may extend to five lakh rupees, or with both.]

73. Penalty for publishing ¹[electronic signature] Certificate false in certain particulars.—(1) No person shall publish a ¹[electronic signature] Certificate or otherwise make it available to any other person with the knowledge that—

- (a) the Certifying Authority listed in the certificate has not issued it; or
- (b) the subscriber listed in the certificate has not accepted it; or
- (c) the certificate has been revoked or suspended,

unless such publication is for the purpose of verifying a ¹[electronic signature] created prior to such suspension or revocation.

(2) Any person who contravenes the provisions of sub-section (1) shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both.

74. Publication for fraudulent purpose.—Whoever knowingly creates, publishes or otherwise makes available a ¹[electronic signature] Certificate for any fraudulent or unlawful purpose shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both.

75. Act to apply for offence or contravention committed outside India.—(1) Subject to the provisions of sub-section (2), the provisions of this Act shall apply also to any offence or contravention committed outside India by any person irrespective of his nationality.

(2) For the purposes of sub-section (1), this Act shall apply to an offence or contravention committed outside India by any person if the act or conduct constituting the offence or contravention involves a computer, computer system or computer network located in India.

76. Confiscation.—Any computer, computer system, floppies, compact disks, tape drives or any other accessories related thereto, in respect of which any provision of this Act, rules, orders or regulations made thereunder has been or is being contravened, shall be liable to confiscation:

Provided that where it is established to the satisfaction of the court adjudicating the confiscation that the person in whose possession, power or control of any such computer, computer system, floppies, compact disks, tape drives or any other accessories relating thereto is found is not responsible for the contravention of the provisions of this Act, rules, orders or regulations made thereunder, the court may, instead of making an order for confiscation of such computer, computer system, floppies, compact disks, tape drives or any other accessories related thereto, make such other order authorised by this Act against the person contravening of the provisions of this Act, rules, orders or regulations made thereunder as it may think fit.

¹77. Compensation, penalties or confiscation not to interfere with other punishment.—No compensation awarded, penalty imposed or confiscation made under this Act shall prevent the award of compensation or imposition of any other penalty or punishment under any other law for the time being in force.

77A. Compounding of offences.—A court of competent jurisdiction may compound offences, other than offences for which the punishment for life or imprisonment for a term exceeding three years has been provided, under this Act:

Provided that the court shall not compound such offence where the accused is, by reason of his previous conviction, liable to either enhanced punishment or to a punishment of a different kind:

Provided further that the court shall not compound any offence where such offence affects the socio economic conditions of the country or has been committed against a child below the age of 18 years or a woman.

1. Subs. by Act 10 of 2009, s. 38, for section 77 (w.e.f. 27-10-2009).

(2) The person accused of an offence under this Act may file an application for compounding in the court in which offence is pending for trial and the provisions of sections 265B and 265C of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply.

77B. Offences with three years imprisonment to be bailable.—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the offence punishable with imprisonment of three years and above shall be cognizable and the offence punishable with imprisonment of three years shall be bailable.]

78. Power to investigate offences.—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), a police officer not below the rank of ¹[Inspector] shall investigate any offence under this Act.

²[CHAPTER XII

INTERMEDIARIES NOT TO BE LIABLE IN CERTAIN CASES

79. Exemption from liability of intermediary in certain cases.—(1) Notwithstanding anything contained in any law for the time being in force but subject to the provisions of sub-sections (2) and (3), an intermediary shall not be liable for any third party information, data, or communication link made available or hosted by him.

(2) The provisions of sub-section (1) shall apply if—

(a) the function of the intermediary is limited to providing access to a communication system over which information made available by third parties is transmitted or temporarily stored or hosted; or

(b) the intermediary does not—

(i) initiate the transmission,

(ii) select the receiver of the transmission, and

(iii) select or modify the information contained in the transmission;

(c) the intermediary observes due diligence while discharging his duties under this Act and also observes such other guidelines as the Central Government may prescribe in this behalf.

(3) The provisions of sub-section (1) shall not apply if—

(a) the intermediary has conspired or abetted or aided or induced, whether by threats or promise or otherwise in the commission of the unlawful act;

(b) upon receiving actual knowledge, or on being notified by the appropriate Government or its agency that any information, data or communication link residing in or connected to a computer resource controlled by the intermediary is being used to commit the unlawful act, the intermediary fails to expeditiously remove or disable access to that material on that resource without vitiating the evidence in any manner.

Explanation.—For the purposes of this section, the expression “third party information” means any information dealt with by an intermediary in his capacity as an intermediary.

CHAPTER XII A

EXAMINER OF ELECTRONIC EVIDENCE

79A. Central Government to notify Examiner of Electronic Evidence.—The Central Government may, for the purposes of providing expert opinion on electronic form evidence before any court or other authority specify, by notification in the Official Gazette, any Department, body or agency of the Central Government or a State Government as an Examiner of Electronic Evidence.

Explanation.—For the purposes of this section, “electronic form evidence” means any information of probative value that is either stored or transmitted in electronic form and includes computer evidence, digital audio, digital video, cell phones, digital fax machines.]

1. Subs. by Act 10 of 2009, s. 39, for “Deputy Superintendent of Police” (w.e.f. 27-10-2009).

2. Subs. by, s. 40, *ibid.*, for Chapter XII (w.e.f. 27-10-2009).

CHAPTER XIII

MISCELLANEOUS

80. Power of police officer and other officers to enter, search, etc.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any police officer, not below the rank of a¹[Inspector], or any other officer of the Central Government or a State Government authorised by the Central Government in this behalf may enter any public place and search and arrest without warrant any person found therein who is reasonably suspected of having committed or of committing or of being about to commit any offence under this Act.

Explanation.—For the purposes of this sub-section, the expression “public place” includes any public conveyance, any hotel, any shop or any other place intended for use by, or accessible to the public.

(2) Where any person is arrested under sub-section (1) by an officer other than a police officer, such officer shall, without unnecessary delay, take or send the person arrested before a magistrate having jurisdiction in the case or before the officer-in-charge of a police station.

(3) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall, subject to the provisions of this section, apply, so far as may be, in relation to any entry, search or arrest, made under this section.

81. Act to have overriding effect.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

²[Provided that nothing contained in this Act shall restrict any person from exercising any right conferred under the Copyright Act, 1957 (14 of 1957) or the Patents Act, 1970 (39 of 1970).]

³[81A. Application of the Act to electronic cheque and truncated cheque.]—(1) The provisions of this Act, for the time being in force, shall apply to, or in relation to, electronic cheques and the truncated cheques subject to such modifications and amendments as may be necessary for carrying out the purposes of the Negotiable Instruments Act, 1881 (26 of 1881) by the Central Government, in consultation with the Reserve Bank of India, by notification in the Official Gazette.

(2) Every notification made by the Central Government under sub-section (1) 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 or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be made, the notification 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 notification.

Explanation.—For the purposes of this Act, the expressions “electronic cheque” and “truncated cheque” shall have the same meaning as assigned to them in section 6 of the Negotiable Instruments Act, 1881 (26 of 1881).]

⁴[82. Controller, Deputy Controller and Assistant Controller to be public servants.]—The Controller, the Deputy Controller and the Assistant Controllers shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).]

83. Power to give directions.—The Central Government may give directions to any State Government as to the carrying into execution in the State of any of the provisions of this Act or of any rule, regulation or order made thereunder.

84. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the Central Government, the State Government, the Controller or any person acting on behalf of him, ⁵[and adjudicating officers] for anything which is in good faith done or intended to be done in pursuance of this Act or any rule, regulation or order made thereunder.

1. Subs. by Act 10 of 2009, s. 41, for “Deputy Superintendent of Police” (w.e.f. 27-10-2009).

2. Ins. by s. 42, *ibid.* (w.e.f. 27-10-2009).

3. Ins. by Act 55 of 2002, s. 13 (w.e.f. 26-2-2003).

4. Subs. by 7 of 2017, s. 169, for section 82 (w.e.f. 26-5-2017)

5. Subs. by s. 169, *ibid.*, for “the Chairperson Members, adjudicating officers and the staff of the Cyber Appellate Tribunal” (w.e.f. 26-5-2017).

¹[**84A. Modes or methods for encryption.**—The Central Government may, for secure use of the electronic medium and for promotion of e-governance and e-commerce, prescribe the modes or methods for encryption.]

84B. Punishment for abetment of offences.—Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be punished with the punishment provided for the offence under this Act.

Explanation.—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

84C. Punishment for attempt to commit offences.—Whoever attempts to commit an offence punishable by this Act or causes such an offence to be committed, and in such an attempt does any act towards the commission of the offence, shall, where no express provision is made for the punishment of such attempt, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the longest term of imprisonment provided for that offence, or with such fine as is provided for the offence, or with both.]

85. Offences by companies.—(1) Where a person committing a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company, shall be guilty of the contravention 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 punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

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

Explanation.—For the purposes of this section,—

- (i) “company” means any body corporate and includes a firm or other association of individuals; and
- (ii) “director”, in relation to a firm, means a partner in the firm.

86. Removal of difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

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

87. Power of Central Government to make rules.—(1) The Central Government may, by notification in the Official Gazette and in the Electronic Gazette, make rules to carry out the provisions 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:—

- ²[(a) the conditions for considering reliability of electronic signature or electronic authentication technique under sub-section (2) of section 3A;

1. Ins. by 10 of 2009, s. 45 (w.e.f. 27-10-2009).

2. Subs. by s. 46, *ibid.*, for clause (a) (w.e.f. 27-10-2009).

(aa) the procedure for ascertaining electronic signature or authentication under sub-section (3) of section 3A;

(ab) the manner in which any information or matter may be authenticated by means of electronic signature under section 5;]

(b) the electronic form in which filing, issue, grant or payment shall be effected under sub-section (1) of section 6;

(c) the manner and format in which electronic records shall be filed, or issued and the method of payment under sub-section (2) of section 6;

¹[(ca) the manner in which the authorised service provider may collect, retain and appropriate service charges under sub-section (2) of section 6A;]

(d) the matters relating to the type of ²[electronic signature], manner and format in which it may be affixed under section 10;

³[(e) the manner of storing and affixing electronic signature creation data under section 15;

(ea) the security procedures and practices under section 16;]

(f) the qualifications, experience and terms and conditions of service of Controller, Deputy Controllers ⁴[, Assistant Controllers, other officers and employees] under section 17;

⁵* * * *

(h) the requirements which an applicant must fulfil under sub-section (2) of section 21;

(i) the period of validity of licence granted under clause (a) of sub-section (3) of section 21;

(j) the form in which an application for licence may be made under sub-section (1) of section 22;

(k) the amount of fees payable under clause (c) of sub-section (2) of section 22;

(l) such other documents which shall accompany an application for licence under clause (d) of sub-section (2) of section 22;

(m) the form and the fee for renewal of a licence and the fee payable thereof under section 23;

⁶[(ma) the form of application and fee for issue of Electronic Signature Certificate under section 35;]

(n) the form in which application for issue of a ²[electronic signature] Certificate may be made under sub-section (1) of section 35;

(o) the fee to be paid to the Certifying Authority for issue of a ²[electronic signature] Certificate under sub-section (2) of section 35;

¹[(oa) the duties of subscribers under section 40A;

(ob) the reasonable security practices and procedures and sensitive personal data or information under section 43A;]

(p) the manner in which the adjudicating officer shall hold inquiry under sub-section (1) of section 46;

(q) the qualification and experience which the adjudicating officer shall possess under sub-section (3) of section 46;

⁷* * * *

(u) the form in which appeal may be filed and the fee thereof under sub-section (3) of section 57;

1. Ins. by Act 10 of 2009, s. 46 (w.e.f. 27-10-2009).

2. Subs. by s. 5, *ibid.*, for “digital signature” (w.e.f. 27-10-2009).

3. Subs. by s. 46, *ibid.*, for clause (e) (w.e.f. 27-10-2009).

4. Subs. by s. 46, *ibid.*, for “and Assistant Controllers” (w.e.f. 27-10-2009).

5. Clause (g) omitted by s. 46, *ibid.* (w.e.f. 27-10-2009).

6. Ins. by s. 46, *ibid.* (w.e.f. 27-10-2009).

7. Clauses (r), (s) and (t) omitted by Act 7 of 2017, s. 169 (w.e.f. 26-5-2017).

(v) any other power of a civil court required to be prescribed under clause (g) of sub-section (2) of section 58; and

¹[(w) the powers and functions of the Chairperson of the ²[Appellate Tribunal] under section 52A;

(x) the information, duration, manner and form of such information to be retained and preserved under section 67C;

(y) the procedures and safeguards for interception, monitoring or decryption under sub-section (2) of section 69;

(z) the procedures and safeguards for blocking for access by the public under sub-section (3) of section 69 A;

(za) the procedure and safeguards for monitoring and collecting traffic data or information under sub-section (3) of section 69B;

(zb) the information security practices and procedures for protected system under section 70;

(zc) manner of performing functions and duties of the agency under sub-section (3) of section 70A;

(zd) the officers and employees under sub-section (2) of section 70B;

(ze) salaries and allowances and terms and conditions of service of the Director General and other officers and employees under sub-section (3) of section 70B;

(zf) the manner in which the functions and duties of agency shall be performed under sub-section (5) of section 70B;

(zg) the guidelines to be observed by the intermediaries under sub-section (2) of section 79;

(zh) the modes or methods for encryption under section 84A.]

(3) ³[Every notification made by the Central Government under sub-section (1) of section 70A and every rule made by it] 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 or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in ^{4***} the rule or both Houses agree that ^{4***} the rule should not be made, ^{4***} 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 notification or rule.

88. Constitution of Advisory Committee.—(1) The Central Government shall, as soon as may be after the commencement of this Act, constitute a Committee called the Cyber Regulations Advisory Committee.

(2) The Cyber Regulations Advisory Committee shall consist of a Chairperson and such number of other official and non-official members representing the interests principally affected or having special knowledge of the subject-matter as the Central Government may deem fit.

(3) The Cyber Regulations Advisory Committee shall advise—

(a) the Central Government either generally as regards any rules or for any other purpose connected with this Act;

(b) the Controller in framing the regulations under this Act.

(4) There shall be paid to the non-official members of such Committee such travelling and other allowances as the Central Government may fix.

1. Subs. by Act 10 of 2009, s. 46, for clause (w) (w.e.f. 27-10-2009).

2. Subs. by Act 7 of 2017, s. 169, for “Cyber Appellate Tribunal”(w.e.f. 26-5-2017).

3. Subs. by Act 10 of 2009, s. 46, for certain words, brackets, letter and figures (w.e.f. 27-10-2009).

4. The words “the notification or” omitted by s. 46, *ibid.* (w.e.f. 27-10-2009).

89. Power of Controller to make regulations.—(1) The Controller may, after consultation with the Cyber Regulations Advisory Committee and with the previous approval of the Central Government, by notification in the Official Gazette, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

(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 particulars relating to maintenance of data base containing the disclosure record of every Certifying Authority under clause ¹[(n)] of section 18;

(b) the conditions and restrictions subject to which the Controller may recognise any foreign Certifying Authority under sub-section (1) of section 19;

(c) the terms and conditions subject to which a licence may be granted under clause (c) of sub-section (3) of section 21;

(d) other standards to be observed by a Certifying Authority under clause (d) of section 30;

(e) the manner in which the Certifying Authority shall disclose the matters specified in sub-section (1) of section 34;

(f) the particulars of statement which shall accompany an application under sub-section (3) of section 35.

(g) the manner by which the subscriber shall communicate the compromise of private key to the Certifying Authority under sub-section (2) of section 42.

(3) Every regulation made under this Act 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 or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation 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 regulation.

90. Power of State Government to make rules.—(1) The State Government may, by notification in the Official Gazette, make rules to carry out the provisions 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 electronic form in which filing, issue, grant, receipt or payment shall be effected under sub-section (1) of section 6;

(b) for matters specified in sub-section (2) of section 6;

* * * * *

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

91. [Amendment of Act 45 of 1860.] Omitted by the Information Technology (Amendment) Act, 2008 (10 of 2009), s. 48 (w.e.f. 27-10-2009).

92. [Amendment of Act 1 of 1872.] Omitted by s. 48, *ibid.* (w.e.f. 27-10-2009).

93. [Amendment of Act 18 of 1891.] Omitted by s. 48, *ibid.* (w.e.f. 27-10-2009).

94. [Amendment of Act 2 of 1934.] Omitted by s. 48, *ibid.* (w.e.f. 27-10-2009).

1. Subs. by notification No. S.O. 1015(E), for “(m)” (w.e.f. 19-9-2002).

2. Clause (c) omitted by Act 10 of 2009, s. 47 (w.e.f. 27-10-2009).

¹[THE FIRST SCHEDULE

[See sub-section (4) of section 1]

DOCUMENTS OR TRANSACTIONS TO WHICH THE ACT SHALL NOT APPLY

S.I. No.	Description of documents or transactions
1.	A negotiable instrument (other than a cheque) as defined in section 13 of the Negotiable Instruments Act, 1881 (26 of 1881).
2.	A power-of-attorney as defined in section 1A of the Powers-of-Attorney Act, 1882 (7 of 1882).
3.	A trust as defined in section 3 of the Indian Trust Act, 1882 (2 of 1882).
4.	A will as defined in clause (h) of section 2 of the Indian Succession Act, 1925 (39 of 1925), including any other testamentary disposition by whatever name called.
5.	Any contract for the sale or conveyance of immovable property or any interest in such property.

THE SECOND SCHEDULE

[See sub-section (1) of section 3A]

ELECTRONIC SIGNATURE OR ELECTRONIC AUTHENTICATION TECHNIQUE AND PROCEDURE

S.I. No.	Description	Procedure
(1)	(2)	(3)
.]		

[THE THIRD SCHEDULE.] Omitted by the Information Technology (Amendment) Act, 2008 (10 of 2009), s. 50 (w.e.f. 27-10-2009).

[THE FOURTH SCHEDULE.] Omitted by s. 50, *ibid.* (w.e.f. 27-10-2009).

1. Subs. by Act 10 of 2009, s. 49, for the First Schedule and the Second Schedule (w.e.f. 27-10-2009).