

Banking Companies Act, 1949

UNION OF INDIA

India

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Act 37 of 1949

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1. [Amended by The Banking Companies (Amendment) Act, 1956 (Act 95 of 1956) on 1 January 1956]
2. [Amended by The Banking Companies (Amendment) Act, 1956 (Act 95 of 1956) on 1 January 1956]
3. [Amended by The Banking Companies (Second Amendment) Act, 1960 (Act 37 of 1960) on 19 September 1960]

An Act to consolidate and amend the law relating to banking companies.WHEREAS it is expedient to consolidate and amend the law relating to banking companies;It is hereby enacted as follows:—

Part I – PRELIMINARY

1. Short title, extent and commencement

(1)This Act may be called the Banking Companies Act, 1949.(2)It extends to the whole of India except the State of Jammu and Kashmir. [Subs.by Act 20 of 1950 s.2, for the former sub-section.](3)It shall come into force on such date {16th March, 1949, see Notification No.F.4(46)-FI / 49, dated the 10th March 1949, Gazette of India, 1949, Pt.I, p.326.} as the Central Government may, by notification in the Official Gazette, appoint in this behalf.

2. Application of other laws not barred

The provisions of this Act shall be in addition to, and not, save as hereinafter expressly provided, in derogation of the Indian Companies Act, 1913, and any other law for the time being in force.

3. Act not to apply to co-operative banks

Nothing in this Act shall apply to a co-operative bank registered under the Co-operative Societies Act, 1912, or any other law for the time being in force in any {Subs.by Act 20 of 1950, s.4, for " State ".} [part of India] relating to co-operative societies.

4. Power to suspend operation Act

(1)The Central Government, if on a representation made by the Reserve Bank in this behalf it is satisfied that it is expedient so to do may by notification in the Official Gazette suspend for such period, not exceeding sixty days, as may be specified in the notification, the operation of all or any of the provisions of this Act, either generally or in relation to any specified banking company.(2)In a case of special emergency, the Governor of the Reserve Bank, or in his absence a Deputy Governor of the Reserve Bank nominated by him in this behalf may, by order in writing, exercise the powers of the Central Government under sub-section (1) so however that the period of suspension shall not exceed thirty days, and where the Governor or the Deputy Governor, as the case may be does so, he shall report the matter to the Central Government forthwith, and the order shall, as soon as may be, be published in the Gazette of India.(3)The Central Government may, by notification in the Official Gazette, extend from time to time the period of any suspension ordered under sub-section (1) or sub-section (2) for such period, not exceeding sixty days at any one time, as it thinks fit so however that the total period does not exceed one year.(4)A copy of any notification issued under sub-section (3) shall be laid on the table of Parliament as soon as may be after it is issued.

5. Interpretation

(1)In this Act, unless there is anything repugnant in the subject or context,—(a)"approved securities " means securities in which a trustee may invest money under clause (a), clause (b), clause (bb), clause (c) or clause (d) of section 20 of the Indian Trusts Act, 1882, and such securities of, or fully guaranteed by Part B States as the Reserve Bank may be authorized to purchase under clause (8) of section 17 of the Reserve Bank of India Act, 1934;(b)" banking " means the accepting, for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise, and withdrawal by cheque, draft, order or otherwise;(c)" banking company " means any company which transacts the business of banking { "Subs.by Act 20 of 1950, s.3 for " in any State ".} [in India];Explanation.—Any company which is engaged in the manufacture of goods or carries on any trade and which accepts deposits of money from the public merely for the purpose of financing its business as such manufacturer or trader shall not be deemed to transact the business of banking within the meaning of this clause;(d)" company " means any company which may be wound up under the Indian Companies Act,1913;{Cl.(e) omitted by Act 52 of 1953, s.2}(f)" demand liabilities " means liabilities which must be met on demand and " time liabilities " means liabilities which are not demand liabilities;(g)" gold " includes gold in the form of coin.whether legal tender or not, or in the form of bullion or ingot, whether refined or not;{Ins.by Act 20 of 1950, s.5.}(gg) " India " means the States to which this Act extends ;](h)" managing agent " means a person, firm or company entitled to the management of the whole affairs of a banking company by virtue of an agreement with the company or by virtue of the memorandum or articles of association relating thereto, and

under the control and direction of the directors except to the extent, if any, otherwise provided for in the agreement, memorandum or articles of association, and includes any person, firm or company occupying such position by whatever name called; Explanation.—If a person occupying the position of managing agent calls himself manager or managing director, he shall nevertheless be deemed to be a managing agent for the purposes of this Act; (i) "private company" has the same meaning as in the Indian Companies Act, 1913; (j) "prescribed" means prescribed by rules made under this Act; (k) "registrar" has the same meaning as in the Indian Companies Act, 1913; (l) "Reserve Bank" means the Reserve Bank of India; (m) "scheduled bank" means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934; and (n) "secured loan or advance" means a loan or advance made on the security of assets the market value of which is not at any time less than the amount of such loan or advance; and "unsecured loan or advance" means a loan or advance not so secured. { Sub-section (2) was omitted by the A.O.1950. }

Part II – BUSINESS OF BANKING COMPANIES

6. Forms of business in which banking companies may engage

(1) In addition to the business of banking, a banking company may engage in any one or more of the following forms of business, namely:—(a) the borrowing, raising, or taking up of money; the lending, or advancing of money either upon or without security; the drawing, making, accepting, discounting, buying, selling, collecting and dealing in bills of exchange, hundees, promissory notes, coupons, drafts, bills of lading, railway receipts, warrants, debentures, certificates, scrips and other instruments, and securities whether transferable or negotiable or not; the granting and issuing of letters of credit, traveller's cheques and circular notes; the buying, selling and dealing in bullion and species; the buying and selling of foreign exchange including foreign bank notes; the acquiring, holding, issuing on commission, underwriting and dealing in stock, funds, shares, debentures, debenture stock, bonds, obligations, securities and investments of all kinds; the purchasing and selling of bonds scrips or other forms of securities on behalf of constituents or, others the negotiating of loans and advances; the receiving of all kinds of bonds, scrips or valuables on deposit or for safe custody or otherwise; the providing of safe deposit vaults; the collecting and transmitting of money and securities; (b) acting as agents for any Government or local authority or any other person or persons; the carrying on of agency business of any description including the clearing and forwarding of goods, giving of receipts and discharges and otherwise acting as an attorney on behalf of customers, but excluding the business of a managing agent of a company; (c) contracting for public and private loans and negotiating and issuing the same; (d) the effecting, insuring, guaranteeing, underwriting, participating in managing and carrying out of any issue, public or private, of State, municipal or other loans or of shares, stock, debentures, or debenture stock of any company, corporation or association and the lending of money for the purpose of any such issue; (e) carrying on and transacting every kind of guarantee and indemnity business; (f) managing, selling and realising any property which may come into the possession of the company in satisfaction or part satisfaction of any of its claims; (g) acquiring and holding and generally dealing with any property or any right, title or interest in any such property which may form the security or part of the security for any loans or advances or which may be connected with any such security; (h) undertaking and executing trusts; (i) undertaking the administration of estates

as executor, trustee or otherwise;(j)establishing and supporting or aiding in the establishment and support of associations.institutions, funds, trusts and conveniences calculated to benefit employees or employees of the company or the dependents or connections of such persons; granting pensions and allowances and making payments towards insurance; subscribing to or guaranteeing moneys for charitable or benevolent objects or for any exhibition or for any public, general or useful object;(k)the acquisition, construction, maintenance and alteration of any building or works necessary or convenient for the purposes of the company;(l)selling, improving, managing, developing, exchanging, leasing.mortgaging, disposing of or turning into account or otherwise dealing with all or any part of the property and rights of the company;(m)acquiring and undertaking the whole or any part of the business of any person or company, when such business is of a nature enumerated or described in this sub-section:(n)doing all such other things as are incidental or conducive to the promotion or advancement of the business of the company;(o)any other form of business which the Central Government may, by notification in the Official Gazette, specify as a form of business in which it is lawful for a banking company to engage.(2)No banking company shall engage in any form of business other than those referred to in sub-section (1).

7. Use of word bank banker banking

After the expiry of two years from the commencement of this Act no company, other than a banking company, shall use as part of its name any of the words " bank ", " banker " or " banking " and no company shall carry on the business of banking { Subs.by Act 20 of 1950, s.3, for " in any State ".} [in India], unless it uses as part of its name at least one of such words:Provided that nothing in this section shall apply to any association of banks formed for the protection of their interests and registered under section 26 of the Indian Companies Act, 1913.

8. Prohibition of trading

Notwithstanding anything contained in section 6 or in any contract, no banking company shall directly or indirectly deal in the buying or selling or bartering of goods, except in connection with the realization of security given to or held by it, or engage in any trade, or buy, sell or barter goods for others otherwise than in connection with bills of exchange received for collection or negotiation or with such of its business as is referred to in clause (i) of sub-section (1) of section 6:Provided that this section shall not apply to any such business as aforesaid which was in the course of being transacted on the commencement of this Act, so however, that the said business shall be completed before the expiry of one year from such commencement.Explanation.—For the purposes of this section, "goods " means every kind of movable property, other than actionable claims, stocks, shares, money, bullion and specie, and all instruments referred to in clause (a) of sub-section (1) of section 6.

9. Disposal of non-banking assets

Notwithstanding anything contained in section 6, no banking company shall hold any immovable property howsoever acquired, except such as is required for its own use, for any period exceeding seven years from the acquisition thereof or from the commencement of this Act, whichever is later

or any extension of such period as in this section provided, and such property shall be disposed of within such period or extended period, as the case may be: Provided that the banking company may, within the period of seven years as aforesaid, deal or trade in any such property for the purpose of facilitating the disposal thereof: Provided further that the Reserve Bank may in any particular case extend the aforesaid period of seven years by such period not exceeding five years where it is satisfied that such extension would be in the interests of the depositors of the banking company.

10. Prohibition of employment of managing agents and restrictions on certain forms of employment

(1) No banking company—(a) shall employ or be managed by a managing agent, or (b) shall employ any person—(i) who is or at any time has been adjudicated insolvent, or has suspended payment or has compounded with his creditors, or who is or has been convicted by a Criminal Court or an offence involving moral turpitude; or (ii) whose remuneration or part of whose remuneration takes the form of commission or of a share in the profits of the company; or (iii) whose remuneration is, according to the normal standards prevailing in banking business, on a scale disproportionate to the resources of the company; or (c) shall be managed by any person—(i) who is a director of any other company, not being a subsidiary company of the banking company; or (ii) who is engaged in any other business or vocation; or (iii) who has a contract with the company for its management for a period exceeding five years at any one time: Provided that the said period of five years shall, in relation to contracts subsisting on the 1st day of July, 1944, be computed from that date: Provided further that any contract with the company for its management may be renewed or extended for a further period not exceeding five years at a time if and so often as the directors so decide. (2) If any question arises in any particular case whether the remuneration is, according to the normal standards prevailing in banking business, on a scale disproportionate to the resources of the company for the purpose of sub-clause (iii) of clause (b) of sub-section (1), the decision of the Reserve Bank thereon shall be final for all purposes.

11. Requirement as to minimum paid-up capital and reserves

(1) Notwithstanding anything contained in section 103 of the Indian Companies Act, 1913, no banking company in existence on the commencement of this Act, shall, after the expiry of three years from such commencement or of such further period not exceeding , one year as the Reserve Bank, having regard to the interests of the depositors of the company, may think fit in any particular case to allow, carry on business {Subs, by Act 20 of 1950, s.3, for " in any State".} [in India], and no other banking company shall, after the commencement of this Act, commence or carry on business {Subs, by Act 20 of 1950, s.3, for " in any State".} [in India], unless it has paid-up capital and reserves of such aggregate value as is hereinafter required by this section. (2) In the case of a banking company incorporated {Subs., ibid., for "elsewhere than in a State".} [outside India], the aggregate value of its paid-up capital and reserves shall not be less than fifteen lakhs of rupees, and, if it has a place or places of business in the city of Bombay or Calcutta or both, twenty lakhs of rupees: Provided that no such banking company shall be deemed to have complied with the provisions of this sub-section, unless it deposit and keeps deposited with the Reserve Bank an amount not less than the minimum required by this sub-section, either in cash or in unencumbered

approved securities or partly in cash and partly in such securities.(3)In the case of any banking company to which the provisions of sub-section (2) do not apply, the aggregate value of its paid-up capital and reserves shall not be less than—(i)if it has places of business in more than one State, five lakhs of rupees, and if any such place or places of business is or are situated in the city of Bombay or Calcutta or both, ten lakhs of rupees;(ii)if it has all its places of business in one State none of which is situated in the city of Bombay or Calcutta, one lakh of rupees in respect of its principal place of business, plus ten thousand rupees in respect of each of its other places of business situated in the same district in which it has its principal place of business, plus twenty-five thousand rupees in respect of each place of business situated elsewhere in the State otherwise than in the same district:Provided that no banking company to which this clause applies shall be required to have paid-up capital and reserves exceeding an aggregate value of five lakhs rupees:Provided further that no banking company to which this clause applies and which has only one place of business shall be required to have paid-up capital and reserves exceeding an aggregate value of fifty thousand rupees;(iii)if it has all its places of business in one State, one or more of which is or are situated in the city of Bombay or Calcutta, five lakhs of rupees, plus twenty-five thousand rupees in respect of each place of business situated outside the city of Bombay or Calcutta, as the case may be:Provided that no banking company to which this clause applies shall be required to have paid-up capital and reserves exceeding an aggregate value of ten lakhs of rupees.Explanation.—For the purposes of this sub-section, a place of business situated {Subs.by Act 20 of 1950, s.3, for " in a State ".} [in India] other than that in which the principal place of business of the banking company is situated shall, if it is not more than twenty-five miles distant from such principal place of business, be deemed to be situated within the same State as such principal place of business.(4)Any amount deposited and kept deposited with the Reserve Bank under the proviso to sub-section (2) by any banking company incorporated {Subs, ibid., for "elsewhere than in a State ".}[outside India] shall, in the event of the company ceasing for any reason to carry on banking business {Subs, ibid., for " in the States ".} [in India], be an asset of the company on which the claims of all the creditors of the company { Subs, ibid., for " in the States ".} [in India] shall be a first charge.(5)For the purposes of this section " value " means the real or exchangeable value, and not the nominal value which may be shown in the books of the banking company concerned.(6)If any dispute arises in computing the aggregate value of the paid-up capital and reserves of any banking company, a determination thereof by the Reserve Bank shall be final for the purposes of this section.

12. Regulation of Paid-up capital, subscribed capital and authorised capital, and voting rights of share holders

:- No banking company shall carry on business {Subs.ibid., for " in any State ".} [in India], unless it satisfies the following conditions, namely:—(i)that the subscribed capital of the company is not less than one-half of the authorised capital, and the paid-up capital is not less than one-half of the subscribed capital and that, if the capital is increased, it complies with the conditions of prescribed in this clause within such period not exceeding two years as the Reserve Bank may allow;(ii)that the capital of the company consists of ordinary shares only or of ordinary shares and such preference shares as may have been issued prior to the 1st day of July, 1944;(iii)that, subject to the provisions contained in clause (iv) here of, the voting rights of any one shareholder, whether a preference shareholder or an ordinary shareholder, are strictly proportionate to the contribution made by him

to the paid-up capital of the company;(iv)that the voting rights of any one shareholder do not exceed five per cent.of the total voting rights of all the share holders:Provided that nothing contained in this section shall apply to any banking company incorporated before the 15th day of January, 1937.

13. Restriction on commission, broker-age, discount, etc., on sale of shares

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

14. Prohibition of charge on unpaid capital

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

15. Restrictions as to payment of dividend

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

16. Prohibition of common directors

No banking company incorporated {Subs.by Act 20 of 1950, s.3, for “in a State”.} [in India] shall have as a director any person who is a director of another banking company.

17. Reserve fund

Every banking company incorporated {Subs.by Act 20 of 1950, s.3, for “in a State”.} [in India] shall maintain a reserve fund, and shall, out of the net profits of each year and before any dividend is declared, transfer a sum equivalent to not less than twenty per cent.of such profits to the reserve fund until the amount of the said fund is equal to the paid-up capital.Explanation.—For the purposes of this section, the expression ” net profits ” shall have the meaning assigned to it in sub-section (3) of section 87C of the Indian Companies Act, 1913.

18. Cash reserve

Every banking company not being a scheduled bank shall maintain by way of cash reserve in cash with itself, or in an account opened with the Reserve Bank, or partly in cash with itself and partly in such account, a sum equivalent to at least two per cent.of its time liabilities and five per cent.of its demand liabilities and shall file with the Reserve Bank before the fifteenth day of every month three

copies of a statement of the amount so held on Friday of each week of the preceding month with particulars of its time and demand liabilities on each Friday.

19. Restriction on nature of subsidiary companies

(1) A banking company shall not form any subsidiary company except a subsidiary company formed for one or more of the following purposes, namely, the undertaking and executing of trusts, the undertaking of the administration of estates as executor, trustee or otherwise, the providing of safe deposit vaults or, with the previous permission in writing of the Reserve Bank, such other purposes as are incidental to the business of banking. (2) Save as provided in sub-section (1), no banking company shall hold shares in any company, whether as pledgee, mortgagee or absolute owner, of an amount exceeding thirty per cent. of the paid-up share capital of that company or thirty per cent. of its own paid-up share capital and reserves, whichever is less: Provided that any banking company which is on the date of the commencement of this Act holding any shares in contravention of the provisions of this sub-section shall not be liable to any penalty therefor if it reports the matter without delay to the Reserve Bank and if it brings its holding of shares into conformity with the said provisions within such period, not exceeding two years, as the Reserve Bank may think fit to allow. (3) Save as provided in sub-section (1) and notwithstanding anything contained in sub-section (2), a banking company shall not, after the expiry of one year from the date of the commencement of this Act, hold shares, whether as pledgee, mortgagee or absolute owner, in any company in the management of which any managing director or manager of the banking company is in any manner concerned or interested.

20. Restrictions on loans and advances

(1) Notwithstanding anything to the contrary contained in section 54A of the Indian Companies Act, 1913, no banking company shall make any loans or advances on the security of its own shares, or grant unsecured loans or advances to any of its directors or to firms or private companies in which it or any of its directors is interested as partner or managing agent or to any individuals, firms or private companies in cases where any of the directors is a guarantor. (2) Every banking company shall, before the close of the month succeeding that to which the return relates, submit to the Reserve Bank a return in the prescribed form and manner, showing all unsecured loans and advances granted by it to companies in which it or any of its directors is interested as director or managing agent or guarantor. (3) If on examination of any return submitted under sub-section (2) it appears to the Reserve Bank that any loans or advances referred to in that sub-section are being granted to the detriment of the interests of the depositors of the banking company, the Reserve Bank may, by order in writing, prohibit the banking company from granting any such further loans or advances or impose such restrictions on the grant thereof as it thinks fit, and may by like order direct the banking company to secure the repayment of any such loan or advance within such time as may be specified in the order.

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

(1) Where the Reserve Bank is satisfied that it is necessary or expedient in the public interest so to do, it may determine the policy in relation to advances to be followed by banking companies generally or by any banking company in particular, and when the policy has been so determined, all banking companies or the banking company concerned, as the case may be, shall be bound to follow the policy as so determined. (2) Without prejudice to the generality of the power vested in the Reserve Bank under sub-section (1), the Reserve Bank may give directions to banking companies, either generally or to any banking company or group of banking companies in particular, as to the purposes for which advances may or may not be made, the margins to be maintained in respect of secured advances and the rates of interest to be charged on advances, and each banking company shall be bound to comply with any directions as so given.

22. Licensing of banking companies

(1) Save as hereinafter provided, no company shall carry on banking business {Subs. by Act 20 of 1950, s.3, for " in any State ".} [in India] unless it holds a licence granted by the Reserve Bank in such behalf. (2) Every banking company in existence on the commencement of this Act, before the expiry of six months from such commencement, and every other company before commencing banking business {Subs. by Act 20 of 1950, s.3, for " in any State ".} [in India], shall apply in writing to the Reserve Bank for a licence under this section: Provided that in the case of a banking company in existence on the commencement of this Act, nothing in sub-section (1) shall be deemed to prohibit the company from carrying on banking business until it is granted a licence in pursuance of sub-section (2) or is by notice in writing informed by the Reserve Bank that a licence cannot be granted to it: Provided further that the Reserve Bank shall not give a notice as aforesaid to a banking company in existence on the commencement of this Act before the expiry of the three years referred to in sub-section (1) of section 11 or of such further period as the Reserve Bank may under that sub-section think fit to allow. (3) Before granting any licence under this section, the Reserve Bank may require to be satisfied by an inspection of the books of the company or otherwise that all or any of the following conditions are fulfilled, namely:—(a) that the company is in a position to pay its depositors in full as their claims accrue; (b) that the affairs of the company are not being conducted to the detriment of the interests of its depositors; (c) in the case of a company incorporated {Subs. by Act 20 of 1950, s.3, for " elsewhere than in a State " } [outside India] that the Government or law of the country in which it is incorporated does not discriminate in any way against banking companies registered {Subs., ibid., for " in a State ".} [in India], and that the company complies with all the provisions of this Act, applicable to banking companies incorporated {Subs., ibid., for " outside the States " } [outside India]. (4) The Reserve Bank may—(a) cancel any licence granted under this section where any of the conditions set out in sub-section (3), on the fulfilment of which it required to be satisfied when granting the licence, ceases to be fulfilled or if the company ceases to carry on banking business {Subs., ibid., for " in the States " } [in India] or goes into liquidation; (b) at any time after granting a licence under this section require that any of the said conditions, on the fulfilment of which it did not require to be satisfied when granting the licence, shall be fulfilled to its satisfaction within such time as it may specify, and if the condition is not so fulfilled, cancel the licence. (5) Any banking company aggrieved by the cancellation of its licence under sub-section (4)

may appeal to the Central Government, and the decision of the Central Government on such appeal shall be final.

23. Restrictions on opening of new and transfer of existing places of business

No banking company shall open a new place of business in any part of India or change, otherwise than within the same city, town or village, the location of an existing place of business situated in any part of India, and no banking company incorporated in India shall open a new place of business outside India or change, otherwise than within the same city, town or village in any country or area outside India, the location of an existing place of business situated in that country or area without first obtaining the prior permission in writing of the Reserve Bank]; and before giving any such permission the Reserve Bank may require to be satisfied by an inspection under section 35 or otherwise as to the financial condition and history of the company, the general character of its management, the adequacy of its capital structure and earning prospects and that public interest will be served by the opening or, as the case may be, change of location, of the place of business: [Subs., *ibid* s.6. for certain words.] Provided that nothing in this section shall apply to the opening for a period not exceeding one month of a temporary place of business within a city, town or village or the environs thereof within which the banking company already has a place of business for the purpose of affording banking facilities to the public on the occasion of an exhibition, conference or mela. Explanation.—For the purposes of this section "place of business" includes any sub-office, pay office, sub-pay-office and any place of business at which deposits are received, cheques cashed or moneys lent.

24. Maintenance of a percentage of assets

(1) After the expiry of two years from the commencement of this Act, every banking company shall maintain in cash, gold or unencumbered approved securities, valued at a price not exceeding the current market price, an amount which shall not at the close of business on any day be less than 20 per cent. of the total of its time and demand liabilities {Subs. by Act 20 of 1950, s.3, for "in the States"} [in India]. Explanation.—For the purposes of this section liabilities shall not include the paid-up capital or the reserves or any credit balance in the profit and loss account of the company or the amount of any loan taken from the Reserve Bank. (2) In computing the amount for the purposes of sub-section (1) the deposit required under the proviso to sub-section (2) of section 11 to be made with the Reserve Bank by a banking company incorporated {Subs., *ibid.*, for "elsewhere than in a State"} [outside India] and any balance maintained by a banking company with the Reserve Bank or its agent or both, including in the case of a scheduled bank the balance required under sub-section (1) of section 42 of the Reserve Bank of India Act, 1934, to be so maintained, shall be deemed to be cash maintained. (3) For the purpose of ensuring compliance with the provisions of this section, every banking company shall, not later than fifteen days after the end of the month to which it relates, furnish to the Reserve Bank in the prescribed form and manner a monthly return showing particulars of its assets maintained in accordance with this section, and its time and demand liabilities at the close of business on each Friday during the month, or if any Friday is a public holiday under the Negotiable Instruments Act, 1881, at the close of business on the preceding

working day.

25. Assets in India

(1)The assets{Subs.by Act 20 of 1950, s.3, for " in the States.} [in India] of every banking company at the close of the last working day of every quarter shall not be less than seventy-five per cent.of its demand and time liabilities therein.(2)Every banking company shall, within one month from the end of every quarter, submit to the Reserve Bank a return in the prescribed form and manner of the assets and liabilities referred to in subsection (1) as at the close of the last working day of the previous quarter.(3)For the purposes of this section,—{Subs.By Act 20 of 1950, s.7.}[(a) " assets in India " shall be deemed to include export bills drawn in, and import bills drawn on and payable in, India and expressed in such currencies as the Reserve Bank may from time to time approve in this behalf and also such securities as the Reserve Bank may approve in this behalf notwithstanding that all or any of the said bills or securities are held outside India ;](b)" quarter " means the period of three months ending on the last day of March, June, September or December.

26. Return of unclaimed deposits

:- Every banking company shall, within thirty days after the close of each calendar year, submit a return in the prescribed form and manner to the Reserve Bank as at the end of such calendar year of all accounts {Subs.by Act 20 of 1950, s.3, for " in the States.} [in India] which have not been operated upon for ten years giving particulars of the deposits standing to the credit of each such account:Provided that in the case of money deposited for a fixed period the said term of ten years shall be reckoned from the date of the expiry of such fixed period.

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

:- (1) Every banking company shall before the close of the month succeeding that to which it relates submit to the Reserve Bank a return in the prescribed form and manner showing its assets and liabilities {Subs.by Act 20 of 1950, s.3, for " in the States.} [in India] as at the close of business on the last Friday of every month or if that Friday is a public holiday under the Negotiable Instruments Act, 1881, at the close of business on the preceding working day.(2)The Reserve Bank may, at any time, by notice in writing, require a banking company to furnish it within the time specified therein or such further time as the Reserve Bank may allow, with statements and information relating to the business of such banking company, and without prejudice to the generality of the foregoing power may call for information every half-year regarding the classification of advances and investments of banking companies in respect of industry, commerce and agriculture.

28. Power to publish information

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

29. Accounts and balance sheet

:- (1) At the expiration of each calendar year every banking company incorporated {Subs.by Act 20 of 1950, s.3, for " in a State " } [in India], in respect of all business transacted by it, and every banking company incorporated {Subs., ibid., for " outside the States " } [outside India], in respect of all business transacted through its branches {Subs.by Act 20 of 1950, s.3, for " in a State " } [in India], shall prepare with reference to that year a balance-sheet and profit and loss account as on the last working day of the year in the Forms set out in the Third Schedule or as near thereto as circumstances admit: Provided that in the case of a banking company incorporated {Subs., ibid., for " outside the States " } [outside India], the profit and loss account may be prepared as on a date not earlier than two months before the last working day of the year (2) The balance-sheet and profit and loss account shall be signed—(a) in the case of a banking company incorporated {Subs.by Act 20 of 1950, s.3, for " in a State " } [in India], by the manager or the principal officer of the company and where there are more than three directors of the company, by at least three of those directors, or where there are not more than three directors, by all the directors, and (b) in the case of a banking company incorporated {Subs., ibid., for " outside the States " } [outside India] by the manager or agent of the principal office of the company {Subs., ibid., for " in the States " } [in India]. (3) Notwithstanding that the balance-sheet of a banking company is under sub-section (1) required to be prepared in a form other than the form marked F in the Third Schedule to the Indian Companies Act, 1913, the requirements of that Act relating to the balance-sheet and profit and loss account of a company shall, in so far as they are not inconsistent with this Act, apply to the balance-sheet or profit and loss account, as the case may be, of a banking company. (4) The Central Government, after giving not less than three months' notice of its intention so to do by a notification in the Official Gazette, may from time to time by a like notification amend the Forms set out in the Third Schedule.

30. Audit

:- (1) The balance-sheet and profit and loss account prepared in accordance with section 29 shall be audited—(a) in the case of a banking company incorporated {Subs.by Act 20 of 1950 s.3, for " in a State " } [in India], by a person duly qualified under any law for the time being in force to be an auditor of companies; (b) in the case of a banking company incorporated {Subs, ibid-, for ' outside the States " } [outside India], either by such an auditor as aforesaid, or by a person duly qualified to be an auditor under the law of the country in which the company is incorporated. (2) The auditor shall have the powers of, exercise the functions vested in, and discharge the duties and be subject to the liabilities and penalties imposed on, auditors of companies by section 145 of the Indian Companies Act, 1913. (3) In addition to the matters which under the aforesaid Act the auditor is required to state in his report, he shall, in the case of a banking company incorporated {Subs.by Act 20 of 1950 s.3, for " in a State " } [in India], state in his report,—(a) whether or not the information and explanations required by him have been found to be satisfactory; (b) whether or not the transactions of the company which have come to his notice have been within the powers of the company; (c) whether or not the returns received from branch offices of the company have been found adequate for the purposes of his audit; (d) whether the profit and loss account shows a true balance of profit and loss for the period covered by such account; (e) any other matter which he

considerations should be brought to the notice of the shareholders of the company.

31. Submission of returns

The accounts and balance-sheet referred to in section 29 together with the auditor's report shall be published in the prescribed manner and three copies thereof shall be furnished as returns to the Reserve Bank within three months from the end of the period to which they refer: Provided that the Reserve Bank may in any case extend the said period of three months for the furnishing of such returns by a further period not exceeding three months.

32. Copies of balance sheets and accounts to be sent to registrar

(1) Where a banking company in any year furnishes its balance-sheet and accounts in accordance with the provisions of section 31 it may, or when it is a private company, shall, at the same time send to the registrar three copies of such balance-sheet and accounts and of the auditor's report, and where such copies are so sent it shall not be necessary for the company to file copies of the balance-sheet and accounts with the registrar as required by sub-section (1) of section 134 of the Indian Companies Act, 1913, and such copies so sent shall be chargeable with the same fees and shall be dealt with in all respects as if they were filed in accordance with that section. (2) When in pursuance of sub-section (2) of section 27 the Reserve Bank requires any additional statement or information in connection with the balance-sheet and accounts furnished under section 31, the banking company shall, when supplying such statement or information, send a copy thereof to the registrar.

33. Display of audited balance sheet by companies incorporated outside India

Every banking company incorporated {Subs. by Act 20 of 1950, s.3, for "outside the States"} [outside India] shall, not later than the first Monday in August of any year in which it carries on business, display in a conspicuous place in its principal office and in every branch office {Subs., ibid., for "in the States"} [in India] a copy of its last audited balance-sheet and profit and loss account prepared under section 29, and shall keep the copy so displayed until replaced by a copy of the subsequent balance-sheet and profit and loss account so prepared, and every such banking company shall display in like manner copies of its complete audited balance-sheet and profit and loss account relating to its banking business as soon as they are available, and shall keep the copies so displayed until copies of such subsequent accounts are available.

34. Accounting provisions of this Act not retrospective

Nothing in this Act shall apply to the preparation of accounts by a banking company and the audit and submission thereof in respect of any accounting year which has expired prior to the commencement of this Act. and notwithstanding the other provisions of this Act, such accounts shall be prepared, audited and submitted in accordance with the law in force immediately before the

commencement of this Act.

35. Inspection

(1)Notwithstanding anything to the contrary contained in section 138 of the Indian Companies Act, 1913, the Reserve Bank at any time may, and on being directed so to do by the Central Government shall, cause an inspection to be made by one or more of its officers of any banking company and its books and accounts; and the Reserve Bank shall supply to the banking company a copy of its report on such inspection.(2)It shall be the duty of every director or other officer of the banking company to produce to any officer making an inspection under sub-section (1) all such books, accounts and other documents in his custody or power and to furnish him with any statements and information relating to the affairs of the banking company as the said officer may require of him within such time as the said officer may specify.(3)Any person making an inspection under sub-section (1) may examine on oath any director or other officer of the banking company in relation to its business, and may administer an oath accordingly.(4)The Reserve Bank shall, if it has been directed by the Central Government to cause an inspection to be made, and may, in any other case, report to the Central Government on any inspection made under this section, and the Central Government, if it is of opinion after considering the report that the affairs of the banking company are being conducted to the detriment of the interests of its depositors, may, after giving such opportunity to the banking company to make a representation in connection with the report as, in the opinion of the Central Government, seems reasonable, by order in writing—(a)prohibit the banking company from receiving fresh deposits;(b)direct the Reserve Bank to apply under section 38 for the winding up of the banking company:Provided that the Central Government may defer for such period as it may think fit, the passing of an order under this sub-section, or cancel or modify any such order, upon such terms and conditions as it may think fit to impose.(5)The Central Government may, after giving reasonable notice to the banking company, publish the report submitted by the Reserve Bank or such portion thereof as may appear necessary.

36. Further powers and functions of Reserve Bank

(1)The Reserve Bank may—(a)caution or prohibit banking companies generally or any banking company in particular against entering into any particular transaction or class of transactions, and generally give advice to any banking company;(b)on a request by the companies concerned and subject to the provisions of section 45, assist, as intermediary or otherwise, in proposals for the amalgamation of such banking companies;(c)give assistance to any banking company by means of the grant of a loan or advance to it under clause (3) of sub section (1) of section 18 of the Reserve Bank of India Act, 1934;(d)during the course, or after the completion, of any inspection of a banking company under section 35, by order in writing, require the company—(i)to call a meeting of its directors for the purpose of considering any matter arising in the course of or out of such inspection or of meeting an officer of the Reserve Bank to discuss any such matter;(ii)to make, within such time as may be specified in the order, such changes in its management as the Reserve Bank may consider necessary in consequence of the state of affairs disclosed during or by the inspection.(2)The Reserve Bank shall make an annual report to the Central Government on the trend and progress of banking in the country with particular reference to its activities under clause (2) of section 17 of the Reserve

Bank of India Act, 1934, including in such report its suggestions, if any, for the strengthening of banking business throughout the country.(3)The Reserve Bank may appoint such staff at such places as it considers necessary for the scrutiny of the returns, statements and information furnished by banking companies under this Act, and generally to ensure the efficient performance of its functions under this Act.

Part III – SUSPENSION OF BUSINESS AND WINDING UP OF BANKING COMPANIES

36A. High Court defined:-

A In this Part and in Part III-A “High Court” in relation to a banking company, means the High Court exercising jurisdiction in the place where the registered office of the banking company is situated or, in the case of a banking company incorporated outside India, where its principal place of business in India is situated. [Ins.by Act 52 of 1953 s.:3]

37. Suspension of business

(1)The {Subs., ibid., s.4, for ” Court “.}[High Court] may on the application of a banking company which is temporarily unable to meet its obligations make an order (a copy of which it shall cause to be forwarded to the Reserve Bank) staying the commencement or continuance of all actions and proceedings against the company for a fixed period or time on such terms and conditions as it shall think fit and proper, and may from time to time extend the period so however that the total period of moratorium shall not exceed six months.(2)No such application shall be maintainable unless it is accompanied by a report of the Reserve Bank indicating that in the opinion of the Reserve Bank the banking company will be able to pay its debts if the application is granted:Provided that the { Subs.by Act 52 of 1953, s.4, for ” Court “.} [High Court] may, for sufficient reasons, grant relief under this section even if the application is not accompanied by such report, and where such relief is granted, the {Subs.by Act 52 of 1953, s.4, for ” Court “.} [High Court] shall call for a report from the Reserve Bank on the affairs of the banking company, on receipt of which it may either rescind any order already passed or pass such further orders thereon as may be just and proper in the circumstances.(3)When an application is made under sub-section (1), the High Court may appoint a special officer who shall forthwith take into his custody or under his control all the assets, books, documents, effects and actionable claims to which the banking company is or appears to be entitled and shall also exercise such other powers as the High Court may deem fit to confer on him, having regard to the interests of the depositors of the banking company.[Ins.by Act 52 of 1953 s.:3]

38. Winding up by High Court

(1)Without prejudice to the provisions contained in section 162 or section 271 of the Indian Companies Act, 1913, and without prejudice to its powers under section 37, the {Subs.by Act 52 of 1953, s.4, for ” Court “.} [High Court] shall order the winding up of a banking company if it is unable to pay its debts and the [Subs.by Act 52 of 1953, s.4, for ” Court “.][High Court] shall also order the

winding up of a banking company if the Reserve Bank applies in this behalf to the {Subs.by Act 52 of 1953, s.4, for " Court ".} [High Court].(2)The Reserve Bank may make an application under this section only if it is directed so to do by order under clause (b) of sub-section (4) of section 35 or if the banking company has failed to comply within due time with the demand contained in a notice under sub-section (5) of section 46.(3)Without prejudice to the provisions contained in section 163 of the Indian Companies Act, 1913, a banking company shall be deemed to be unable to pay its debts if it has refused to meet any lawful demand for payment made at any of its offices or branches within two working days, if such demand is made at a place where there is an office, branch or agency of the Reserve Bank, or within five working days, if such demand is made elsewhere, and if the Reserve Bank certifies in writing that the banking company is unable to pay its debts.(4)A copy of every application by the Reserve Bank under sub-section (1) shall be sent by the Reserve Bank to the registrar.

38A. Court liquidator:-

(1)There shall be attached to every High Court a court liquidator to be appointed by the Central Government for the purpose of conducting all proceedings for the winding up of banking companies and performing such other duties in reference thereto as the High Court may impose.(2)Where there is a court liquidator attached to a High Court and an order is passed by the High Court for the winding up of any banking company, then, notwithstanding anything contained in section 171A or section 175 of the Indian Companies Act, 1913, the court liquidator shall become the official liquidator of the banking company.(3)Where there is a court liquidator attached to a High Court and any proceeding for the winding up of a banking company in which any person other than the Reserve Bank or the court liquidator has been appointed as official liquidator is pending before the High Court immediately before the commencement of the Banking Companies (Amendment) Act, 1953, or the date on which the court liquidator is so attached to the High Court, whichever is later, then, notwithstanding anything contained in section 176 of the Indian Companies Act, 1913, the person appointed as the official liquidator shall, on such commencement or, as the case may be, on the aforesaid date, be deemed to have vacated his office as such and the vacancy so caused shall be deemed to be filled up by the appointment of the court liquidator as the official liquidator:Provided that where the High Court, after giving the court liquidator and the Reserve Bank an opportunity of being heard, is of opinion that the appointment of the court liquidator would be detrimental to the interests of the depositors of the banking company, it may direct the person appointed as the official liquidator to continue to act as such.(4)Where having regard to the number of banking companies wound up and other circumstances of the case, the Central Government is of opinion that it is not necessary or expedient to attach for the time being a court liquidator to a High Court, it may, from time to time, by notification in the Official Gazette, direct that this section shall not have effect in relation to that High Court. [Ins.by Act 52 of 1953, s.6]

39. Reserve Bank to be official liquidator

Notwithstanding anything contained [Ins.by Act 52 of 1953, s.7.] [in section 38A of this Act or] in section 175 of the Indian Companies Act, 1913, where in any proceeding for the winding up by the {Subs., ibid., s.4, for " Court ".} [High Court] of a banking company, an application is made by the

Reserve Bank in this behalf, the Reserve Bank {Ins.by Act 23 of 1955, s.53 and Sch.IV.} [or the State Bank of India, as the case may be, as stated in such application] shall be appointed as the official liquidator of the banking company in such proceeding.

40. Stay of proceedings

Notwithstanding anything to the contrary contained in section 173 of the Indian Companies Act, 1913, the {Subs., ibid., s.4, for " Court ".} [High Court] shall not make any order staying the proceedings in relation to the winding up of a banking company, unless the {Subs., ibid., s.4, for " Court ".} [High Court] is satisfied that an arrangement has been made whereby the company can pay its depositors in full as their claims accrue.

41. Report of liquidator

Notwithstanding anything to the contrary contained in section 177B of the Indian Companies Act, 1913, where a winding up order is made in respect of a banking company, the official liquidator shall submit a preliminary report to the {Subs., ibid., s.4, for " Court ".} [High Court] within two months from the date of the order giving the information required by that section so far as it is available to him, to enable the {Subs., ibid., s.4, for " Court ".} [High Court] to order the payment of a preliminary dividend if sufficient assets are available.

42. Power to dispense with meetings of creditors, etc

Notwithstanding anything to the contrary contained in sections 178A and 183 of the Indian Companies Act, 1913, the {Subs., ibid., s.4, for " Court ".} [High Court] may, in the proceedings for winding up a banking company, dispense with any meetings of creditors or contributories or with the appointment of a committee of inspection if it considers that no object will be secured thereby sufficient to justify the delay and expense.[Subs.by Act 52 of 1953, s.8, for the original s.43.]

43. Booked depositors credits to be deemed proved

In any proceeding for the winding up of a banking company, every depositor of the banking company shall be deemed to have filed his claim for the amount shown in the books of the banking company as standing to his credit and, notwithstanding anything to the contrary contained in section 191 of the Indian Companies Act, 1913, the High Court shall presume such claims to have been proved, unless the official liquidator shows that there is reason for doubting its correctness.

43A. Preferential payment to small depositors:-

(1)In every proceeding for the winding up of a banking company, after the preferential payments referred to in section 230 of the Indian Companies Act, 1913, have been made, there shall be paid, to every depositor in the savings bank account of the banking company, a sum of one hundred rupees or the balance at his credit, whichever is less, in priority to all other debts from out of the remaining

assets of the banking company available for payment of general creditors.(2)The aforesaid payments shall 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 proportion.]

44. Restriction on voluntary winding up

Notwithstanding anything to the contrary contained in section 203 of the Indian Companies Act, 1913, no banking company which holds a licence granted under section 22 may be voluntarily wound up unless the Reserve Bank certifies in writing that the company is able to pay in full all its debts to its creditors as they accrue, and without prejudice to the provisions contained in sections 218 and 220 of that Act, the {Subs.by Act 52 of 1953, s.4, for " Court ".} [High Court] shall, on the application of the Reserve Bank, order the winding up of the company by the {Subs.by Act 52 of 1953, s.4, for " Court ".} [High Court] if at any stage during the voluntary winding up proceedings the company is not able to meet such debts as they accrue.

44A. Procedure for amalgamation of banking companies:-

(1)Notwithstanding anything contained in any law for the time being in force, no banking company shall be amalgamated with another banking company, unless a scheme containing the terms of such amalgamation has been placed in draft before the shareholders of each of the banking companies concerned separately, and approved by a resolution passed by a majority in number representing two thirds in value of the shareholders of each of the said companies, present either in person or by proxy at a meeting called for the purpose.(2)Notice of every such meeting as is referred to in sub-section (1) shall be given to every shareholder of each of the banking companies concerned in accordance with the relevant articles of association, indicating the time, place and object of the meeting, and shall also be published at least once a week for three consecutive weeks in not less than two newspapers which circulate in the locality or localities where the registered offices of the banking companies concerned are situated, one of such newspapers being in a language commonly understood in the locality or localities.(3)Any shareholder, who has voted against the scheme of amalgamation at the meeting or has given notice in writing at or prior to the meeting to the company concerned or to the presiding officer of the meeting that he dissents from the scheme of amalgamation, shall be entitled, in the event of the scheme being sanctioned by the Reserve Bank, to claim from the banking company concerned, in respect of the shares held by him in that company, their value as determined by the Reserve Bank when sanctioning the scheme and such determination by the Reserve Bank as to the value of the shares to be paid to the dissenting shareholder shall be final for all purposes.(4)If the scheme of amalgamation is approved by the requisite majority of shareholders in accordance with the provisions of this section, it shall be submitted to the Reserve Bank for sanction and shall, if sanctioned by the Reserve Bank by an order in writing passed in this behalf, be binding on the banking companies concerned and also on all the shareholders thereof.(5)Where a scheme of amalgamation is sanctioned by the Reserve Bank under the provisions of this section, the Reserve Bank shall transmit a copy of the order sanctioning the scheme to the registrar before whom the banking companies concerned have been registered, and the registrar shall, on receipt of any such order, strike off the name of the company (hereinafter in this section referred to as the amalgamated banking company) which by reason of the amalgamation

will cease to function.(6)On the sanctioning of a scheme of amalgamation by the Reserve Bank, the property of the amalgamated banking company shall, by virtue of the order of sanction, be transferred to and vest in, and the liabilities of the said company shall, by virtue of the said order be transferred to, and become the liabilities of, the banking company which under the scheme of amalgamation is to acquire the business of the amalgamated banking company, subject in all cases to the terms of the order sanctioning the scheme. [Ins.by Act 20 of 1950, s.8.]

45. Restriction on compromise or arrangement between banking company and creditors

(1)Notwithstanding anything contained in any law for the time being in force, no [Subs., ibid-, s 4, for " Court."] [High Court] shall sanction a compromise or arrangement between a banking company and its creditors or any class of them or between such company and its creditors or any class of them or between such company and its members or any class of them unless the compromise or arrangement is certified by the Reserve Bank [Subs.by Act 52 of 1953, s.9, for "as not being detrimental to the interests of the depositors of such company ".] [in writing as not being incapable of being worked and as not being detrimental to the interests of the depositors of such banking company.[Subs.by Act 20 of 1950, s.9.][Renumbered as sub-section (1) of section 45 by Act 52 of 1953, s.9](2)Where an application under section 153 of the Indian Companies Act, 1913 is made in respect of a banking company, the High Court may direct the Reserve Bank to make an inquiry in relation to the affairs of the banking company and the conduct of its directors and when such a direction is given, the Reserve Bank shall make such inquiry and submit its report to the High Court. [Ins, ibid.][Part III-A consisting of ss.45A to 45X, were subs.by Act 52 of 1953, s.10, for the former Part III-A.]

Part III – A SPECIAL PROVISIONS FOR SPEEDY DISPOSAL OF WINDING UP PROCEEDINGS

45A. Part III-A to override other laws:-

The provisions of this Part and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in the Indian Companies Act, 1913 or the Code of Civils Procedure, 1908 or the Code of Criminal Procedure, 1898 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 law or instrument in so far as the same are not varied by, or inconsistent with, the provisions of this Part or rules made thereunder shall apply to all proceedings under this Part.

45B. Power of High Court to decide all claims In respect of banking companies.:-

The High Court shall, save as otherwise expressly provided in section 45C, have exclusive jurisdiction to entertain and decide any claim made by or against a banking company which is being

wound up (including claims by or against any of its branches in India) or any application made under section 153 of the Indian Companies Act, 1913, by or in respect of a banking company or any question of priorities or any other question whatsoever, whether of law or fact, which may relate to or arise in the course of the winding up of a banking company, whether such claim or question has arisen or arises or such application has been made or is made before or after the date of the order for the winding up of the banking company or before or after the commencement of the Banking Companies (Amendment) Act, 1953.

45C. Transfer of pending proceedings:-

(1) Where a winding up order is made or has been made in respect of a banking company, no suit or other legal proceeding, whether civil or criminal, in respect of which the High Court has jurisdiction under this Act and which is pending in any other court immediately before the commencement of the Banking Companies (Amendment) Act, 1953, or the date of the order for the winding up of the banking company, whichever is later, shall be proceeded with except in the manner hereinafter provided. (2) The official liquidator shall, within three months from the date of the winding up order or the commencement of the Banking Companies (Amendment) Act, 1953, whichever is later, or such further time as the High Court may allow, submit to the High Court a report containing a list of all such pending proceedings together with particulars thereof. (3) On receipt of a report under sub-section (2), the High Court may, if it so thinks fit, give the parties concerned an opportunity to show cause why the proceedings should not be transferred to itself and after making an inquiry in such manner as may be provided by rules made under section 45U, it shall make such order as it deems fit transferring to itself all or such of the pending proceedings as may be specified in the order and such proceedings shall thereafter be disposed of by the High Court. (4) If any proceeding pending in a court is not so transferred to the High Court under sub-section (3), such proceeding shall be continued in the court in which the proceeding was pending. (5) Nothing in this section shall apply to any proceeding pending in appeal before the Supreme Court or a High Court.

45D. Settlement of list of debtors:-

(1) Notwithstanding anything to the contrary contained in any law for the time being in force, the High Court may settle in the manner hereinafter provided a list of debtors of a banking company which is being wound up. (2) Subject to any rules that may be made under section 52, the official liquidator shall, within six months from the date of the winding up order or the commencement of the Banking Companies (Amendment) Act, 1953, whichever is later, from time to time, file to the High Court lists of debtors containing such particulars as are specified in the Fourth Schedule. Provided that such lists may, with the leave of the High Court, be filed after the expiry of the said period of six months. (3) On receipt of any list under sub-section (2), the High Court shall, wherever necessary, cause notices to be issued on all persons affected and after making an inquiry in such manner as may be provided by rules made under section 45U, it shall make an order settling the list of debtors: Provided that nothing in this section shall debar the High Court from settling any such list in part as against such of the persons whose debts have been settled without settling the debts of all the persons placed on the list. (4) At the time of the settlement of any such list, the High Court shall pass an order for the payment of the amount due by each debtor and make such further

orders as may be necessary in respect of the relief claimed, including reliefs against any guarantor or in respect of the realisation of any security.(5)Every such order shall, subject to the provisions for appeal, be final and binding for all purposes as between the banking company on the one hand and the person against whom the order is passed and all persons claiming through or under him on the other hand, and shall be deemed to be a decree in a suit.(6)In respect of every such order, the High Court shall issue a certificate specifying clearly the reliefs granted and the names and descriptions of the parties against whom such reliefs have been granted, the amount of costs awarded and by whom, and out of what funds and in what proportions, such costs are to be paid; and every such certificate shall be deemed to be a certified copy of the decree for all purposes including execution.(7)At the time of settling the list of debtors or at any other time prior or subsequent thereto, the High Court shall have power to pass any order in respect of a debtor on the application of the official liquidator for the realisation, management, protection, preservation or sale of any property given as security to the banking company and to give such powers to the official liquidator to carry out the aforesaid directions as the High Court thinks fit.(8)The High Court shall have power to sanction a compromise in respect of any debt and to order the payment of any debt by instalments.(9)In any case in which any such list is settled ex parte as against any person, such person may, within thirty days from the date of the order settling the list, apply to the High Court for an order to vary such list, so far as it concerns him, and if the High Court is satisfied that he was prevented by any sufficient cause from appearing on the date fixed for the settlement of such list and that he has a good defence to the claim of the banking company on merits, the High Court may vary the list and pass such orders in relation thereto as it thinks fit:Provided that the High Court may, if it so thinks fit, entertain the application after the expiry of the said period of thirty days.(10)Nothing in this section shall—(a)apply to a debt which has been secured by mortgage of immovable property, if a third party has any interest in such immovable property; or(b)prejudice the rights of the official liquidator to recover any debt due to a banking company under any other law for the time being in force.

45E. Special provisions to make calls on contributories:-

Notwithstanding that the list of the contributories has not been settled under section 184 of the Indian Companies Act, 1913, the High Court may, if it appears to it necessary or expedient so to do, at any time after making a winding up order, make a call on and order payment thereof by any contributory under sub-section (1) of section 187 of the Indian Companies Act, 1913, if such contributory has been placed on the list of contributories by the official liquidator and has not appeared to dispute his liability.

45F. Documents of banking company to be evidence:-

(1)Entries in the books of account or other documents of banking company which is being wound up shall be admitted in evidence in all proceedings by or against the banking company; and all such entries may be proved either by the production of the books of account or other documents of the banking company containing such entries or by the production of a copy of the entries, certified by the official liquidator under his signature and stating that it is a true copy of the original entries and that such original entries are contained in the books of account or other documents of the banking company in his possession.(2)Notwithstanding anything to the contrary contained in the Indian

Evidence Act, 1872, all such entries in the books of account or other documents of a banking company shall, as against the directors of the banking company in respect of which the winding up order has been made before the commencement of the Banking Companies (Amendment) Act, 1953, be prima facie evidence of the truth of all matters purporting to be therein recorded.

45G. Public examination of directors and auditors:-

(1) Where an order has been made for the winding up of a banking company, the official liquidator shall submit a report whether in his opinion any loss has been caused to the banking company since its formation by any act or omission (whether or not a fraud has been committed by such act or omission) of any person in the promotion or formation of the banking company or of any director or auditor of the banking company. (2) If, on consideration of the report submitted under sub-section (1), the High Court is of opinion that any person who has taken part in the promotion or formation of the banking company or has been a director or an auditor of the banking company should be publicly examined, it shall hold a public sitting on a date to be appointed for that purpose and direct that such person, director or auditor shall attend thereat and shall be publicly examined as to the promotion or formation or the conduct of the business of the banking company, or as to his conduct and dealings, in so far as they relate to the affairs of the banking company: Provided that no such person shall be publicly examined unless he has been given an opportunity to show cause why he should not be so examined. (3) The official liquidator shall take part in the examination and for that purpose may, if specially authorised by the High Court in that behalf, employ such legal assistance as may be sanctioned by the High Court. (4) Any creditor or contributory may also take part in the examination either personally or by any person entitled to appear before the High Court. (5) The High Court may put such questions to the person examined as it thinks fit. (6) The person examined shall be examined on oath and shall answer all such questions as the High Court may put or allow to be put to him. (7) A person ordered to be examined under this section may, at his own cost, employ any person entitled to appear before the High Court who shall be at liberty to put to him such questions as the High Court may deem just for the purpose of enabling him to explain or qualify any answer given by him: Provided that if he is, in the opinion of the High Court, exculpated from any charges made or suggested against him, the High Court may allow him such costs in its discretion as it may deem fit. (8) Notes of the examination 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 in any proceeding, civil or criminal, and shall be open to the inspection of any creditor or contributory at all reasonable times. (9) Where on such examination, the High Court is of opinion (whether a fraud has been committed or not)—(a) that a person, who has been a director of the banking company, is not fit to be a director of a company, or (b) that a person, who has been an auditor of the banking company or a partner of a firm acting as such auditor, is not fit to act as an auditor of a company or to be a partner of a firm acting as such auditor, The High Court may make an order that that person shall not, without the leave of the High Court, be a director of, or in any way, whether directly or indirectly, be concerned or take part in the management of any company or, as the case may be, act as an auditor of, or be a partner of a firm acting as auditors of, any company for such period not exceeding five years as may be specified in the order.

45H. Special provisions for assessing damages against delinquent directors, etc:-

(1)Where an application is made to the High Court under section 235 of the Indian Companies Act, 1913 against any promoter,director, manager, liquidator or officer of a banking company for repayment or restoration of any money or property and the applicant makes out a prima facie case against such person, the High Court shall make an order against such person to repay and restore the money or property unless he proves that he is not liable to make the repayment or restoration either wholly or in part:Provided that where such an order is made jointly against two or more such persons, they shall be jointly and severally liable to make the repayment or restoration of the money or property.(2)Where an application is made to the High Court under section 235 of the Indian Companies Act, 1913 and the High Court has reason to believe that a property belongs to any promoter, director, manager, liquidator or officer of the banking company, whether the property stands in the name of such person or any other person as an ostensible owner, then the High Court may, at any time, whether before or after making an order under sub-section (1), direct the attachment of such property, or such portion thereof, as it thinks fit and the property so attached shall remain subject to attachment unless the ostensible owner can prove to the satisfaction of the High Court that he is the real owner and the provisions of the Code of Civil Procedure, 1908 relating to attachment of property shall, as far as may be, apply to such attachment.

45I. Duty of directors and officers of banking company to assist in the realisation of property:-

Every director or other officer of a banking company which is being wound up shall give such assistance to the official liquidator as he may reasonably require in connection with the realisation and distribution of the property of the banking company.

45J. Special provisions for punishing offences in relation to banking companies being wound p:-

(1)The High Court may, if it thinks fit, take cognizance of and try in a summary way any offence alleged to have been committed by any person who has taken part in the promotion or formation of the banking company which is being wound up or by any director, manager or officer thereof:Provided that the offence is one punishable under this Act or under the Indian Companies Act,(2)When trying any such offence as aforesaid, the High Court may also try any other offence not referred to in sub-section (1) which is an offence with which the accused may, under the Code of Criminal Procedure, 1898, be charged at the same trial.(3)In any case tried summarily under sub-section (1), the High Court—(a)need not summon any witness, if it is satisfied that the evidence of such witness will not be material;(b)shall not be bound to adjourn a trial for any purpose unless such adjournment is, in the opinion of the High Court, necessary in the interests of justice;(c)shall, before passing any sentence, record judgment embodying the substance of the evidence and also the particulars specified in section 263 of the Code of Criminal Procedure, 1898, so far as that section may be applicable;and nothing contained in sub-section (2) of section 262 of the Code of

Criminal Procedure, 1898 shall apply to any such trial.(4)All offences in relation to winding up alleged to have been committed by any person specified in sub-section (1) which are punishable under this Act or under the Indian Companies Act, 1913, and which are not tried in a summary way under sub-section (1) shall, notwithstanding anything to the contrary contained in that Act or the Code of Criminal Procedure, 1898 or in any other law for the time being in force, be taken cognizance of and tried by a Judge of the High Court other than the Judge for the time being dealing with the proceedings for the winding up of the banking company.(5)Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1898 the High Court may take cognizance of any offence under this section without the accused being committed to it for trial and all such trials shall be without the aid of a jury.

45K. Power of High Court to enforce schemes of arrangements etc:-

(1)Where a High Court makes an order under section 153 of the Indian Companies Act, 1913 sanctioning a compromise or arrangement in respect of a banking company, it shall have powerset to supervise the carrying out of the compromise or arrangement and 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 working of the compromise or arrangement.(2)If the High Court is satisfied that a compromise or arrangement sanctioned under section 153 of the Indian Companies Act, 1913 cannot be worked satisfactorily with or without modifications, it may, either on its own motion or on the application of any person interested in the affairs of the banking company, make an order winding up the banking company and such an order shall be deemed to be an order made under section 162 of the Indian Companies Act, 1913.(3)The provisions of this section shall, so far as they may, also apply to a banking company in respect of which an order under section 153 of the Indian Companies Act, 1913 sanctioning a compromise or arrangement has been made before the commencement of the Banking Companies (Amendment) Act, 1953.

45L. Public examination of directors and auditors, etc., in respect of banking company under schemes of arrangement:-

(1)Where an application for sanctioning a compromise or arrangement in respect of a banking company is made under section 153 of the Indian Companies Act, 1913, or where such sanction has been given and the High Court is of opinion, whether on a report of the Reserve Bank or otherwise, that any person who has taken part in the promotion or formation of the banking company or has been a director or auditor of the banking company should be publicly examined, it may direct such examination of such person and the provisions of section 45G shall, as far as may be, apply to the banking company as they apply to a banking company which is being wound up.(2)Where a compromise or arrangement is sanctioned under section 153 of the Indian Companies Act, 1913 in respect of a banking company, the provisions of section 235 of the said Act and of section 45H of this Act shall, as far as may be, apply to the banking company as they apply to a banking company which is being wound up as if the order sanctioning the compromise or arrangement were an order for the winding up of the banking company.

45M. Special provisions for banking companies working under schemes of arrangement at the commencement of the Amendment Act:-

Where any compromise or arrangement sanctioned in respect of a banking company under section 153 of the Indian Companies Act, 1913 is being worked at the commencement of the Banking Companies (Amendment) Act, 1953, the High Court may, if it so thinks fit on the application of such banking company,—(a)excuse any delay in carrying out any of the provisions of the compromise or arrangement; or(b)allow the banking company to settle the list of its debtors in accordance with the provisions of section 45D and in such a case, the provisions of the said section shall, as far as may be, apply to the banking company as they apply to a banking company which is being wound up as if the order sanctioning the compromise or arrangement were an order for the winding up of the banking company.

45N. Appeals:-

(1)An appeal shall lie from any order or decision of the High Court in a civil proceeding under this Act when the amount or value of the subject-matter of the claim exceeds five thousand rupees.(2)The High Court may by rules provide for an appeal against any order made under section 45J and the conditions subject to which any such appeal would lie.(3)Subject to the provisions of sub-section (1) and sub-section (2) and notwithstanding anything contained in any other law for the time being in force, every order or decision of the High Court shall be final and binding for all purposes as between the banking company on the one hand, and all persons who are parties thereto and all persons claiming through or under them or any of them, on the other hand.

45O. Special period of limitation:-

(1)Notwithstanding anything to the contrary contained in the Indian Limitation Act, 1908 or in any other law for the time being in force, in computing the period of limitation prescribed for a suit or application by a banking company which is being wound up, the period commencing from the date of the presentation of the petition for the winding up of the banking company shall be excluded.(2)Notwithstanding anything to the contrary contained in the Indian Limitation Act, 1908 or section 235 of the Indian Companies Act, 1913 or in any other law for the time being in force, there shall be no period of limitation for the recovery of arrears of calls from any director of a banking company which is being wound up or for the enforcement by the banking company against any of its directors of any claim based on a contract, express or implied; and in respect of all other claims by the banking company against its directors, the period of limitation shall be twelve years from the date of the accrual of such claims.(3)The provisions of this section, in so far as they relate to banking companies being wound up, shall also apply to a banking company in respect of which a petition for the winding up has been presented before the commencement of the Banking Companies (Amendment) Act, 1953.

45P. Reserve Bank to tender advice in winding up proceedings:-

Where in any proceeding for the winding up of a banking company in which any person other than the Reserve Bank has been appointed as the official liquidator and the High Court has directed the official liquidator to obtain the advice of the Reserve Bank on any matter (which it is hereby empowered to do), it shall be lawful for the Reserve Bank to examine the record of any such proceeding and tender such advice on the matter as it may think fit.

45Q. Power to inspect:-

(1)The Reserve Bank shall, on being directed so to do by the Central Government or by the High Court, cause an inspection to be made by one or more of its officers of a banking company which is being wound up and its books and accounts.(2)On such inspection, the Reserve Bank shall submit its report to the Central Government and the High Court.(3)If the Central Government, on consideration of the report of the Reserve Bank, is of opinion that there has been a substantial irregularity in the winding up proceedings, it may bring such irregularity to the notice of the High Court for such action as the High Court may think fit.(4)On receipt of the report of the Reserve Bank under sub-section (2) or on any irregularity being brought to its notice by the Central Government under sub-section (3), the High Court may, if it deems fit, after giving notice to and hearing the Central Government in regard to the report, give such directions as it may consider necessary.

45R. Power to call for returns and information:-

The Reserve Bank may, at any time by a notice in writing, , require the liquidator of a banking company to furnish it, within , such time as may be specified in the notice or such further time as the Reserve Bank may allow, any statement or information relating to or connected with the winding up of the banking company; and it shall be the duty of every liquidator to comply with such requirements.Explanation.—For the purposes of this section and section 45Q, a banking company working under a compromise or arrangement but prohibited from receiving fresh deposits, shall, as far as may be, be deemed to be a banking company which is being wound up.

45S. Chief Presidency Magistrate and District Magistrate to assist official liquidator in taking charge of property of banking company being wound up:-

(1)For the purpose of enabling the official liquidator or the special officer appointed under sub-section (3) of section 37 to take into his custody or under his control, all property, effects and actionable claims to which a banking company, which has been ordered to be wound up, is or appears to be entitled, the official liquidator or the special officer, as the case may be, may request in writing the Chief Presidency Magistrate or the District Magistrate, within whose jurisdiction any property, books of account or other documents of such banking company may be situate or be found, to take possession thereof, and the Chief Presidency Magistrate or the District Magistrate, as the case may be, shall, on such request being made to him, take possession of such property, books of account or other documents and forward them to the official liquidator or the special

officer.(2)For the purpose of securing compliance with the provisions of sub-section (1), the Chief Presidency Magistrate or the District Magistrate may take or cause to be taken such steps and use or cause to be used such force as may, in his opinion, be necessary.

45T. Enforcement of orders and decisions of High Court:-

(1)All orders made in any civil proceeding by a High Court may be enforced in the same manner in which decrees of such court made in any suit pending therein may be enforced.(2)Notwithstanding anything to the contrary contained in the Code of Civil Procedure, 1908, a liquidator may apply for the execution of a decree by a court other than the one which made it on production of a certificate granted under sub-section (6) of section 45D and on his certifying to such other court in writing the amount remaining due or relief remaining unenforced under the decree.(3)Without prejudice to the provisions of sub-section (1) or sub-section (2) any amount found due to the banking company by an order or decision of the High Court may, with the leave of the High Court, be recovered in the same manner as an arrear of land revenue.

45U. Power of High Court to make rules:-

The High Court may make rules consistent with this Act and the rules made under section 52 prescribing—(a)the manner in which inquiries and proceedings under Part III or Part III-A may be held;(b)the offences which may be tried summarily;(c)the authority to which, and the conditions subject to which, appeals may be preferred and the manner in which such appeals may be filed and heard;(d)any other matter for which provision has to be made for enabling the High Court to effectively exercise its functions under this Act.

45V. References to directors etc., shall be construed as including references to past directors, etc:-

For the removal of doubts it is hereby declared that any reference in this Part to a director, manager, liquidator, officer or auditor of a banking company shall be construed as including a reference to any past or present director, manager, liquidator, officer or auditor of the banking company.

45W. Part II not to apply to banking companies being wound up:-

Nothing contained in Part II shall apply to a banking company which is being wound up.

45X. Validation of certain proceedings:-

Notwithstanding anything contained in section 45B or any other provision of this Part or in section 11 of the Banking Companies (Amendment) Act, 1950, no proceeding held, judgment delivered or decree or order made before the commencement of the Banking Companies (Amendment) Act, 1953, by any court other than the High Court in respect of any matter over which the High Court has jurisdiction under this Act shall be invalid or be deemed ever to have been invalid merely by reason

of the fact that such proceeding judgment, decree or order was held, delivered or made by a court other than the High Court.]

Part IV – MISCELLANEOUS

46. Penalties

(1)Whoever in any return, balance-sheet or other document required by or under or for the purposes of any provision of this Act, wilfully makes a statement which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.(2)If any person fails to produce any book, account or other document or to furnish any statement or information which under sub-section (2) of section 35 it is his duty to produce or furnish, or to answer any question relating to the business of a banking company which he is asked by an officer making an inspection under that section, he shall be punishable with a fine which may extend to five hundred rupees in respect of each offence, and if he persists in such refusal, to a further fine which may extend to fifty rupees for every day during which the offence continues.(3)If any deposits are received by a banking company in contravention of an order under clause (a) of sub-section (4) of section 35, every director or other officer of the banking company, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent it, shall be deemed to be guilty of such contravention and shall be punishable with a fine which may extend to twice the amount of the deposits so received.(4)If any other provision of this Act is contravened, or if any default is made in complying with any requirement of this Act, or of any order made thereunder, every director and other officer of the banking company who is knowingly a party to the contravention or default shall be punishable with a fine not exceeding five hundred rupees, and where the contravention or default is a continuing one, with a further fine not exceeding fifty rupees for every day during which it continues.(5)Without prejudice to the provisions of sub-section (4), if any banking company fails to comply with the provisions of section 24 or section 25, the Reserve Bank shall by notice in writing make a demand on the banking company to comply with the said provisions within thirty days from the receipt of the notice, and if the banking company fails so to do, the Reserve Bank may apply under section 38 for the winding up of the banking company.

47. Cognizance of offences

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

48. Application of fines

A Court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in or towards payment of the costs of the proceedings, or in or towards the rewarding of the

person on whose information the fine is recovered.

49. Special provisions for private banking companies

The exemptions, whether express or implied, in favour of a private company in sections 17, 77 83B, 86H, 91B, and 91D, and sub-section (5) of section 144 of the Indian Companies Act, 1913, shall, not operate in favour of a private company which is a banking company

50. Certain claims for compensation barred

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

51. Application of certain provisions to the State Bank of India

Without prejudice to the provisions of the State Bank of India Act, 1955, the provisions of sections 10, 13 to 17, 19 to 21, 23 to 31, 34 to 36, 37, 45, 46 to 48, 50, 52 and 53 shall also apply, as far as may be, to and in relation to the State Bank of India as they apply to and in relation to banking companies: Provided that nothing contained in section 46 shall apply to any directors nominated under clauses (e) and (f) of section 19 of the State Bank of India Act, 1955. [Subs. by Act 23 of 1955, s.53 and Sch.IV.]

52. Power of Central Government to make rules

(1) The Central Government may, after consultation with the Reserve Bank, make rules [See the Banking Companies Rules, 1949, Ministry of Finance Notification No.F.4(55)-F- 1/49, dated the 26th March, 1949, Gazette of India, 1949, Pt I, P.389.] to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act and all such rules shall be published in the Official Gazette. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for the details to be included in the returns required by this Act and the manner in which such returns shall be submitted [Ins. by Act 52 of 1953, s.11.] [and the form in which the official liquidator may file lists of debtors to the Court having jurisdiction under Part III or Part III-A and the particulars which such lists may contain and any other matter which has to be, or may be, prescribed.] (3) All rules made under this section shall be subject to the condition of previous publication, and the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897, shall not be less than six months from the date on which the draft of the proposed rules was published: Provided that in respect of the first occasion on which rules are made under this section, the provisions of this sub-section shall not apply. (4) The Central Government may, by rules made under this section annul, alter or add to, all or any of the provisions of the Fourth Schedule. [Ins. by Act 52 of 1953, s.11.]

53. Power to exempt in certain cases

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

54. Protection of action taken under Act

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

55. Amendment of Act II of 1934

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

56. Repeals

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

THE FIRST SCHEDULE

(See section 55) [AMENDMENTS] Not reprinted.

THE SECOND SCHEDULE

(See-section 56) REPEALS
Year No. Short title Extent of repeal
1. 2 3 4
1913. VII The Indian Companies Act, 1913. The whole of Part XA.
1946. XXVII The Banking Companies (Restriction of Branches) Act, 1946. The whole.
1946. IV The Banking Companies (Inspection) Ordinance, 1946. The whole.
1948. XXV The Banking Companies (Control) Ordinance, 1945. The whole.

THE THIRD SCHEDULE

[This Schedule has been printed as amended by Notification No.S.R.O.2020, dated the 22nd April, 1951, Gazette of India, Pt.II, Sec.:S, p.2155.](See section 29)FORM A

FORM OF BALANCE SHEET

CAPITAL AND LIABILITIES

PROPERTY AND ASSETS

Rs. P. Rs. CAPITAL P. Rs. P.(I)

Authorised Capital 1. CASH :..... Shares of Rs.each In hand and with Reserve Bank, {Ins by Act..... Shares of Rs.each 61 of 1981 s. 61 and the Second Sch. (w.e.f..... 1-5-1982)} [National Bank], State Bank of India, State Co-operative Bank and Central Co-operative Bank— — — — —

BALANCES WITH OTHER BANKS

:(I) Current deposits(ii) Savings bank deposits(ii) Subscribed Capital (iii) Fixed deposits— — — — — Shares of Rs.each..... Shares of Rs.each 3. MONEY AT CALL AND SHORT..... NOTICE : (iii) Amount called up 4. Investments : On Shares at Rs. each less (I) In central and State Government calls unpaid On Shares at Rs..... each securities (at book value)less calls unpaid of (iii) above, held by Face Value Rs.(a) Individuals(b) Co-operative institutions Market Value Rs.....(c) State Government(ii) Other Trustee Securities

RESERVE FUNDS AND OTHER

(iii) Shares in co-operative institution other RESERVES than in item (5) below(I) Statutory Reserve (iv) Other investment (to be specified).....(ii) Agricultural (Credit Stabilization Fund).....

INVESTMENT OUT OF THE

(iii) Building Fund PRINCIPAL SUBSIDIARY STATE PARTNERSHIP FUNDS : (iv) Dividend Equalization Fund In Shares of : (v) Special Bad Debts Reserve (I) Central Co-operative Banks (vi) Bad and Doubtful Debts Reserve (ii) Primary Agricultural Credit societies (vii) Investment Depreciation Reserve (iii) Other societies (viii) Other Funds and reserves (to be specified)

ADVANCE : PRINCIPAL / SUBSIDIARY STATE PARTNERSHIP FUND ACCOUNT : (I) Short-term loans, cash credits, overdrafts and bills discounted For share capital of : (I) Central co-operative banks (ii) Primary agricultural credit societies..... (iii) Other societies

CAPITAL AND LIABILITIES

PROPERTY AND ASSETS

Rs. P. Rs. P. Rs. P. DEPOSITS AND OTHER ACCOUNTS : (I) Fixed deposits * Of which secured against (a) Individuals ** (a) Government and other approved securities (b) Central co-operative banks (b) Other tangible securities @ (c) Other societies Of the advance, amount due from individuals (ii) Savings Bank Deposits Of the advances, amount overdue (a) Individuals ** (b) Central co-operative banks Considered bad and doubtful of recovery..... (c) Other societies (ii) Medium-terms loans (iii) Current deposits : Of which secured against : (a) Individuals ** (a) Government and other approved securities (b) Central co-operative banks (b) Other tangible securities @ (c) Other societies Of the advances, amount due from (iv) Money at call and short notice individuals Of the advances, amount overdue : BORROWINGS : Considered bad and doubtful of recovery (I) From the Reserve Bank of India {Ins. by Act 61 of 1981, s. 61 and the Second Sch. ((iii) Long term loans w.e.f. 15-2-1984)} [the National Bank], State / Central co-operative bank : Of which secured against : (a) Short term loans, cash credits and (a) Government and other approved overdrafts securities Of which secured against : (b) Other tangible securities @ (A) Government and other approved Of the advances, amount due from securities individuals (B) Other tangible securities @ Of the advances, amount overdue (b) Medium term loans of which secured Considered bad and doubtful of recovery against : (A) Government and other approved securities 7. INTEREST RECEIVABLE : (B) Other tangible securities @ Of which overdue (c) Long – term loans Considered

bad and doubtful of recoveryOf which secured against : (A) Government and other approved securities (B) Other tangible securities @ (ii) From the State Bank of India (a) Short-term loans, cash credits and overdraftsOf which secured against : CAPITAL AND LIABILITIES PROPERTY AND ASSETS Rs. P. Rs. P. Rs. P. (A) Government and other approved securities 8. BILLS RECEIVABLE BEING BILLS FOR COLLECTION As per contra (B) Other tangible securities @ (b) Medium terms-loans 9. BRANCH ADJUSTMENTSOf which secured against : PREMISES LESS DEPRECIATION (A) Government and other approved securities FURNITURE AND FIXTURES LESS (B) Other tangible securities @ DEPRECIATION (c) Long-term loans OTHER ASSETS (to be specified)Of which secured against : (A) Government and other approved 13. NON-BANKING ASSETS ACQUIRED securities IN SATISFACTION OF CLAIMS (standing mode of valuation) (B) Other tangible securities @ PROFIT AND LOSS (iii) From the State Government (a) Short-term loansOf which secured against : (A) Government and other approved securities (B) Other tangible securities @ (b) Medium term loansOf which secured against : (A) Government and other approved securities (B) Other tangible securities @ (c) Long term loansOf which secured against : (A) Government and other approved securities (B) Other tangible securities @ (iv) Loans from other sources (source and security to be specified) BILLS FOR COLLECTION BEING BILLS RECEIVABLE As per contra CAPITAL AND LIABILITIES PROPERTY AND ASSETS Rs. P. Rs. P. Rs. P.] P. BRANCH ADJUSTMENT OVERDUE INTEREST RESERVE INTEREST PAYABLE OTHER LIABILITIES (i) Bills payable (ii) Unclaimed dividends (iii) Suspense (iv) Sundries PROFIT AND LOSS Profit as per last balance-sheet Less appropriations Add profit for the year brought from the Profit and Loss Account ----- Total ----- Total ----- CONTINGENT LIABILITIES (i) Outstanding liabilities for guarantees issued (ii) Others ----- Total ----- FORM B FORM OR PROFIT AND LOSS ACCOUNT Profit and Loss account for the year ended EXPENDITURE INCOME Rs. P. Rs. P. Rs. P. Interest on deposits borrowings etc. 1. Interest and discount Salaries and allowances and provident 2. Commission exchange and brokerage fund Directors and local committee members' fee and allowances 3. Subsidies and donations Rent taxes, insurance, lighting etc. 4. Income from non-banking assets and profit from sale of or dealing with such Law charges assets Postage, telegrams and telephone charges 5. Other receipts Loss (if any) Auditor's fees Depreciation on and repairs in property Stationery, printing and advertisement etc. Loss from sale of or dealing with nonbanking assets Other expenditure Balance of profit ----- Total Total ----- General Instructions -The corresponding figures (to the nearest rupee, if so desired) for the year immediately preceding the year to which the profit and loss account relates should be shown in separate columns."

THE FIRST SCHEDULE

(See section 55) AMENDMENTS Year No Short title Amendments 1 2 3 4 1934. 2 The Reserve Bank of (1) In section 17, to clause (15A), the India Act, 1934 following shall be added namely :-" and under the Banking companies Act, 1949 (iv of 1949) ". (2) (a) Section 18 shall be renumbered as subsection (1) of that section and in sub-section (1) as so renumbered, -(I) in clause (3) after the words " of that section " , the following words shall be added, namely :-" or when the loan or advance,

is made to banking company as defined in the Banking Companies Act, 1949 (iv of 1949), against such other form of security as the Bank may consider sufficient “; (ii) for the words ” under this section ” wherever they occur, the words ” under this sub-section ” shall be substituted : (b) after sub-section (1) as so renumbered , the following sub-section shall be inserted, namely:—“(2) Where a banking company to which a loan or advance has been made under the provisions of clause (3) of sub-section (1) is wound up, any sums due to the Bank in respect of such loan or advance shall subject only to the claims, if any, of any other banking company in respect of any prior loan or advance made by such banking company against any security bearing first charge on the assets of the banking company”(3) In section 42, for sub-section (6) the following sub-section shall be substituted namely :—“(6) The Bank shall save as hereinafter provided by notification in the Gazette of India,—(a) direct the inclusion in the Second Schedule of any bank not already so included which carries on the business of banking in any province of India and which —(i) has a paid-up capital and reserves of an aggregate value of not less than five lakhs of rupees, and (ii) Satisfies the Bank that its affairs are not being conducted in a manner detrimental to the interest of its depositors; and (iii) is a company as defined in clause (2) of section 2 of the Indian Companies Act, 1913 (7 of 1913) or a corporation or a company incorporated by or under any law in force in any place outside the Provinces of India : (b) direct the exclusion from that schedule of any scheduled bank —(I) the aggregate value of whose paid-up capital and reserves becomes at any time less than five lakhs of rupees or (ii) which is in the opinion of the Bank after making an inspection under section 35 of the Banking Companies Act, 1949 conducting its affairs to the detriment of the interests of its depositors, or (iii) which goes into liquidation or otherwise ceases to carry on banking business : Provided that the Bank may, on application of the scheduled bank concerned and subject to such conditions if any, as it may impose, defer the making of a direction under sub-clause (i) or sub-clause (ii) of clause (b) for such period as the Bank considers reasonable to give the SCHEDULE bank an opportunity of increasing the aggregate value of its paid-up capital and reserves to not less than five lakhs of rupees or, as the case may be, of removing the defects in the conduct of its affairs ; (c) alter the description is that Schedule whenever any scheduled bank changes its name. Explanation.— In this sub-section the expression ‘value’ means the real or exchangeable value and not the nominal value which may be shown in the books of the bank concerned; and if any dispute arises in computing the aggregate value of the paid-up capital and reserves of a bank, a determination thereof by the Bank shall be final for the purposes of this sub-section.

THE THIRD SCHEDULE

[This schedule has been printed as amended by Notion. No. S.R.O. 2020 dated 22-12-1951 Gazette of India, 1951 Pt. II Sec. 3 p. 2155, No. 1137 dated 24-11-1958, Gazette of India 1958, Pt. II Sec. 3(I) p. 1113 and Notifn. No. S.O. 786 (E) dated 2-12-1973 Gazette of India, Extraordinary 1973, Pt II Sec. 3 (ii) p. 2415.](See section 29)

FORM A
FORM OF BALANCE-SHEET
CAPITAL AND LIABILITIES
PROPERTY AND ASSETS

Rs. P. Rs. P. Rs. P. Rs. P.
CAPITAL (a) 1. Cash : Authorised Capital..... Shares of Rs. In hand and with Reserve Bank, {Ins. by Act..... each 61 of 1981 s. 61 and the Second Sch. (w.e.f 1-5-1982)} Issued Capital [National Bank] and Imperial Bank..... Shares of Rs. (including foreign currency notes) Subscribed Capital

BALANCING WITH OTHER BANKS..... Shares of Rs. each (Showing whether on deposit or current Amount called up at Rs. account) per share (I) {Subs. by Act 20 of 1950, s. 3 for ” in Less calls unpaid

..... the States”.} [in India],Add forfeited shares(ii) {Subs. by s. 3 ibid. for ” outside the RESERVE FUND AND OTHER States”.}RESERVES [outside India]DEPOSITS AND OTHER ACCOUNT 3. MONEY AT CALL AND SHORTFixed deposits NOTICESaving Bank Deposits Current AccountsContingency Accounts, etc.(I) From banks(ii) From othersBORROWINGS FROM OTHERBANKING COMPANIES AGENTS ETC.(I) {Subs. by Act 20 of 1950, s. 3 for ” inthe States”.} [in India [in India]..... 4. INVESTMENTS (Stating mode ofvaluation, e., g. cost or market value) : (f)(ii) {Subs. by s. 3 ibid. for ” outside theStates”.} (I) Securities of the Central and State[outside India] Governments and other Trustee securities,including treasury Bills of the Central andParticulars : state Governments.(I) Secured (stating the nature of security) (ii) Shares (classifying into preference,..... ordinary deferred and other classes of shares(ii) Unsecured and showing separately shares fully paid-upand partly paid-up)(iii) Debentures or bonds(iv) Other investments to be classifiedunder proper heads.(v) GoldCAPITAL AND LIABILITIES PROPERTY AND ASSETSRs. P. Rs. P. Rs. P. Rs. P.BILLS PAYABLE 5. ADVANCES (other than bad and doubtfuldebts for which provisions has been made to thesatisfaction of the auditors).BILLS FOR COLLECTION BEING BILLSRECEIVABLE AS PER CONTRA (I) Loans. Cash Credits, Over-drafts, etc:(I) payable [in India] (I) {Subs. by Act 20 of 1950 s. 3 for ” in any state“.}[in India](ii) payable [outside India] (ii) {Subs. by s 3. ibid., for ” outside the States “.}[outside India]OTHER LIABILITIES (C) (II) Bills discounted and purchased (excludingTreasury Bills of the Central and State ACCEPTANCES, ENDORSE- Government)MENTS AND OTHER OBLIGATIONS PERCONTRA (I) payable in India(ii) payable outside IndiaParticulars of Advances;PROFITS AND LOSS (I) Debts considered good for which the bankingcompany is fully securedProfit as per last balance-sheet(ii) Debts considered good for which the bankingLess appropriations company holds no other security than the debtorspersons securityAdd profits for the year brought from the Profit andLoss Account (iii) Debts considered good secured by thepersonal liabilities of one or more parties inaddition to the personal security of the debtors.....(iv) Debts considered doubtful or bad, notprovided for(v) Debts due by directors or officers of thebanking company or any of them either severallyor jointly with any other persons.CAPITAL AND LIABILITIES PROPERTIES AND ASSETSRs. P. Rs. P Rs. P. Rs. P.CONTINGENT LIABILITIES(d) (vi) Debts due by companies or firms in which thedirectors of the banking company are interested asdirectors, partners or managing agents or in the caseof private companies as members.(vii) Maximum total amount of advances includingtemporary advances made at any time during theyear to directors or managers or officers of thebanking company or any of them either severally orjointly with any other persons (ff)(viii) Maximum total amount of advances, includingtemporary advances granted during the year to thecompanies or firms in which the directors of thebanking company are interested as directors, partnersor managing agents or, in the case of privatecompanies, as members (ff)(ix) Due from banking companies.BILLS RECEIVABLE BEING BILLS FORCOLLECTION AS per capita(i) payable {Subs. by Act 20 of 1950, s. 3, for ” inthe States ”}[in India](ii) payable {Subs. by s. 3, ibid., for ” outside theStates ”.}[outside India]CONSTITUENTS’ LIABILITIES FORACCEPTANCE, ENDORSEMENT AND OTHEROBLIGATIONS per contraPREMISES LESS DEPRECIATIONS(g) FURNITURE AND FIXTURES lessDEPRECIATIONS (g)OTHER ASSETS, INCLUDING SILVER (to bespecified) (h)NON-BANKING ASSETS ACQUIRED INSATISFACTION OF CLAIMS (Starting mode ofvaluation)(i)CAPITAL AND LIABILITIESRs. P. Rs. P. Rs. P. Rs. P.PROFIT AND

LOSS _____ Total Total _____

NOTES(a) Capital:—(i) The various classes of capital, if any, should be distinguished.(ii) Shares issued as fully paid-up pursuant to any contract without payments being received in cash should be stated separately.(iii) Where circumstances permit, issued and subscribed capital and amount called up may be shown as one item.e.g., Issued and Subscribed Capital.....Shares of Rs.....paid-up.(iv) In the case of banking companies incorporated {Subs, ibid., for " outside the States ".} [outside India] the amount of deposit kept with the Reserve Bank of India under sub-section (2) of section 11 of the Banking Companies Act, 1949, should be shown under this head, the amount however, should not be extended to the outer column.{ Net loss on sale or revaluation of investments, gold and silver, land, premises and other assets, if any, may be deducted from income.}(c) Under this heading may be included such items as the following: pension or insurance funds, advance payments and unexpired discounts, liabilities to subsidiary companies and any other liabilities.(d) These should be classified under the following categories:—(i) Claims against the banking company not acknowledged as debts.(ii) Money for which the banking company is contingently liable showing separately the amount of any guarantee given by the banking company on behalf of directors or officers.(iii) Arrears of cumulative preference dividends.(iv) Liability on bills of exchange re-discounted.(v) Liability on account of outstanding Forward Exchange Contracts.{Net loss on sale or revaluation of investments, gold and silver, land, premises and other assets, if any, may be deducted from income.}(f) Where the value of the investments shown in the outer column of the balance-sheet is higher than the market value, the market value shall be shown separately in brackets.(ff) Maximum total outstanding balance in all such accounts as a unit on any day during the year should be given under this heading..(g) Premises wholly or partly occupied by the banking company for the purposes of business should be shown against " Premises less depreciation ".In the case of fixed capital expenditure, the original cost, and additions thereto and deductions therefrom during the year should be stated, as also the total depreciation written off.Where sums have been written off on a reduction of capital or revaluation of assets, every balance-sheet after the first balance-sheet subsequent to the reduction or revaluation should show the reduced figures with the date and amount of the reduction made.Furniture, fixtures and other assets which have been completely written off need not be shown in the balance-sheet.(h) Under this heading may be included such items as the following, which must be shown under headings suitably described: preliminary, formation and organisation expenses, development expenditure, commission and brokerage on shares, interest accrued on investments but not collected, investments in shares of subsidiary companies and any other assets.(i) Value shown shall not exceed the market value and in cases where the market value is not ascertainable, the estimated realisable value.

The Third Schedule.

FORM B
FORM OF PROFIT AND LOSS ACCOUNT
Profit and Loss Account for the year ended December
EXPENDITURE * INCOME (LESS PROVISION MADE DURING THE YEAR FOR BAD AND DOUBTFUL DEBTS AND OTHER USUAL OR NECESSARY PROVISIONS)
Interest paid on deposits, borrowings, etc. Interest and discount
Salaries and allowances and provident Fund
{Certain words omitted by Notifn. No. S.O. 3555, dated 17th Commission, exchange and brokerage.
Rent
December, 1963, Gazette of India, 1963, Pt. II, Sec. 3 {Certain words omitted by Notifn. No. S.O.
(ii) page 4323.}**** 3555, dated 17th December, 1963, Gazette of India, 1963, Pt. II, Sec. 3 (ii) page 4323.}****
Directors and Local Committee Members fees and allowances
Net profit on sale of

investments, gold and Provident Fund silver, land, premises and other assets (not Rent, taxes, insurance, lighting etc. credited to Reserves or any particular Fund or Account) Law charges ; Postage telegrams and stamps. Net profit on revaluation of investments gold Auditor's fees and silver, land, premises and other assets (not credited to Reserves or any particular Fund or Account) Depreciation on land and repairs to the banking company's property Income from non-banking assets and profit from sale of or dealing with such assets. Stationary, printing, advertisement, etc. Loss from sale of or dealing with non-banking assets. Other expenditure Other expenditure Balance of profit Loss (if any) _____ Total _____ Total _____ * Net loss on sale or revaluation of investments, gold and silver, land, premises and other assets, if any, may be deducted from income. {Ins., ibid.} [This Form shall be accompanied by a note containing the following particulars namely ; – Particulars of remuneration relating to managing director, manager or chief executive officer showing separately all payments made or provided during the year in respect of each of the following items and the total of all such items, namely: – (i) salaries (ii) allowance (iii) sitting fees (iv) bonus (v) employer's contribution to provident fund, pension fund or any other superannuation fund. (vi) Payment by way of gratuities, pensions or otherwise, in excess or the employer's contributions and interest thereon, and (vii) the monetary value of any other benefits or perquisites.]

THE FOURTH SCHEDULE

[Ins. by Act 52 of 1953, s. 12.] [See section 45D (2)] LIST OF DEBTORS 1. The official liquidator shall from time to time submit lists of debtors to the High Court, each list being verified by an affidavit. 2. Every such list shall contain the following particulars:—(a) names and addresses of the debtors; (b) amount of debt due to the banking company by each debtor; (c) rate of interest, if any, and the date up to which such interest has been calculated in the case of each debtor; (d) description of papers, writings and documents, if any relating to each debt; (e) relief or reliefs claimed against each debtor. 3. (a) In every such list, the official liquidator shall distinguish between the debts for which the banking company holds any security other than a personal security and the debts for which no security or only a personal security is given; (b) In the case of secured debts, particulars of the securities claimed by the banking company, and whenever possible their estimated value, and the names and addresses of person or persons, if any, having an interest in the securities or the right of redemption therein; (c) In case the debt is guaranteed by any person or persons, the name and address of the guarantor or guarantors with particulars as to the extent to which the debt is guaranteed and description of documents, papers or writings in support of such guarantee. 4. If the debtor is adjudged insolvent either before or after he has been included in any such list, but before such list is settled, the name and address of the assignee or the receiver of his estate, as the case may be, should be stated in, or added to, the list. 5. If the original debtor dies either before or after he has been included in any such list, but before such list is settled, there shall be substituted in his place the names and addresses of his legal representatives as far as the official liquidator is able to ascertain.]