

भारतीय यूनिट ट्रस्ट अधिनियम, 1963

(1963 का अधिनियम सं. 52)

[जून, 1997 तक संशोधित]

THE UNIT TRUST OF INDIA ACT, 1963

(52 OF 1963)

(As modified up to June, 1997)

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(For Private Circulation Only)

(केवल निजी वितरण के लिए)

PREFACE

This is a diglot edition of the Unit Trust of India Act, 1963, as on the 1st June, 1973 containing the authoritative Hindi text thereof along with its English text. The Hindi text of the Act was published in the Gazette of India, Extraordinary, Part II, Section 1A, No. 30, Vol. VI dated 2 April, 1970 on pages 557 to 578.

This Hindi text was prepared by the Official Language (Legislative) Commission and it was published under the authority of the President under section 5(1) of the Official Languages Act, 1963, and on such publication, it became the authoritative text of that Act in Hindi.

K. K. SUNDARAM,
Secretary to the Government of India.

New Delhi,
1st June, 1973.

PREFACE TO THE SECOND EDITION

As all the copies of the first diglot edition of The Unit Trust of India Act, 1963 (52 of 1963) have been sold, the second edition is being published, incorporating therein subsequent amendments made to it till 3rd October, 1989. The present edition also gives legislative history of the Act.

B. K. Sharma
*Additional Secretary to the
Government of India*

New Delhi
3rd October, 1989

(i)

LIST OF AMENDING ACTS

1. The Finance Act, 1966 (13 of 1966).
2. The Unit Trust of India (Amendment) Act, 1966 (17 of 1966)
3. The Finance (No. 2) Act, 1967 (20 of 1967).
4. The Repealing and Amending Act, 1974 (56 of 1974).
5. The Trust Laws (Amendment) Act, 1975 (16 of 1975)
6. The Public Financial Institutions Laws (Amendment) Act, 1975 (52 of 1975)
7. The Unit Trust of India (Amendment) Act, 1976 (3 of 1976).
8. The Finance Act, 1982 (14 of 1982).
9. The Finance Act, 1984 (21 of 1984).
10. The Unit Trust of India (Amendment) Act, 1985 (63 of 1985).

List of Abbreviations Used

Cl.	..	..	..	..	"	Clause.
Ins.	..	..	..	..	"	Inserted.
S.	..	..	..	..	"	Section.
Sch.	..	..	..	..	"	Schedule.
Subs.	"	Substituted.

THE UNIT TRUST OF INDIA ACT, 1963

ARRANGEMENT OF SECTIONS

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THE UNIT TRUST OF INDIA ACT, 1963

(Act. No. 52 of 1963)

[30th December, 1963]

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

Be it enacted by Parliament in the Fourteenth Year of the Republic of India as follows.

CHAPTER I

PRELIMINARY

- | | | | |
|----|--------------------|---|--|
| 1. | (1) | This Act may be called the Unit Trust of India Act, 1963. | Short title,
extent, and
commence-
ment |
| | (2) | It extends to the whole of India | |
| | (3) | It shall come into force on such date ¹ as the Central Government may, by notification in the Official Gazette, appoint. | |
| 2. | | In this Act, unless the context otherwise requires, - | Definitions. |
| | (a) | "Board" means the Board of trustees constituted under section 10 or section 41; | |
| | (b) | "contributing institution" means an institution which is, for the time being, a contributory to the initial capital of the trust under section 4. | |
| | (c) | "contribution certificate" means a certificate issued under section 6; | |
| | ² [(ca) | "Development Bank" means the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964;] | 18 of 1964 |

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1. 1st February, 1964 : vide Notification No. GSR 172, dated 31-1-1964, Gazette of India, Extraordinary, Pt. II Sec. 3(i) p. 47.
 2. Ins. by Act 52 of 1975, s. 44 (w.e.f. 16-2-1976)

- ¹[(cb)] "first unit scheme" means the unit scheme made before the commencement of the Unit Trust of India (Amendment) Act, 1966 (17 of 1966);]
- ³[(cc)] "General Insurance Corporation" means the General Insurance Corporation of India formed under section 9 of the General Insurance Business (Nationalisation) Act, 1972;] 57 of 1972
- (d) "initial capital" means the capital of the Trust referred to in Section 4;
- (e) "Life Insurance Corporation" means the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (2 of 1956);
- (f) "prescribed" means prescribed by regulations made under this Act;
- ³[(fa)] "public financial institution" means every financial institution, other than the Trust, specified by or under section 4A of the Companies Act, 1956';] 1 of 1956
- (g) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934; 2 of 1934
- (h) "scheduled bank" means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934 2 of 1934
- ⁴[(i)] "security" means-
- (a) any share, stock, bond, debenture or debenture stock, of any body corporate;
- (b) any unit or sub-unit issued by, or other participation in a unit scheme framed by, any body or authority (not being the Trust) outside India or a mutual fund established outside India;
- and includes-

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1. Ins. by Act 17 of 1966, s.2 (w.e.f. 10-6-1966)
 2. Cl. (cc) relettered as cl. (cb) by Act. 52 of 1975, s. 44 (w.e.f. 16-2-1976)
 3. Ins by Act. 63 of 1985, s. 2 (w.e.f. 23-4-1986)
 4. Subs by Act. 63 of 1985, s 2 (w.e.f. 23-4-1986)

- | | | |
|-------------------|---|------------|
| (i) | a government security as defined in section 2 of the Public Debt Act, 1944; | 18 of 1944 |
| (ii) | a savings certificate to which the Government Savings Certificates Act, 1959 applies; | 46 of 1959 |
| (iii) | any security issued by any local authority in India, or by the Government of, or a local authority in, any such country outside India as may be approved by the Reserve Bank; and | |
| (iv) | any foreign security as defined in section 2 of the Foreign Exchange Regulation Act, 1973, as may be approved by the Reserve Bank;] | 46 of 1973 |
| (j) | "State Bank" means the State Bank of India constituted under the State Bank of India Act 1955; | 23 of 1955 |
| ¹ (jj) | "subsequent unit scheme" means any scheme made after the commencement of the Unit Trust of India (Amendment) Act, 1966 | 17 of 1966 |
| (k) | "subsidiary bank" has the same meaning as in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 | 38 of 1959 |
| (l) | "Trust" means the Unit Trust of India established under section 3; | |
| (m) | "trustee" means a trustee appointed, nominated or elected under section 10 or section 41; | |
| (n) | "unit" means a unit issued under ² [a unit scheme]; | |
| (o) | "unit capital" means the aggregate of the face value of the units sold under ² [a unit scheme] and outstanding for the time being; | |
| (p) | "unit certificate" means a certificate issued to the purchaser of a unit under ² [a unit scheme]; | |
| (q) | "unit holder" means person for the time being recognised by the Trust as the holder of a unit certificate under ² [a unit scheme]; | |
| (r) | "unit scheme" means a scheme made under section 21. | |

1. Ins. by Act 17 of 1966, s.2 (w.e.f. 10-6-1966)

2. Subs. by s.2, ibid (w.e.f. 10-6-1966) "The Unit Scheme"

CHAPTER II

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

3. (1) The Central Government shall, by notification in the Official Gazette, establish a Corporation by the name of the Unit Trust of India which shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act to acquire, hold or dispose of property and to contract, and may, by the said name, sue or be sued.
- (2) The head office of the Trust shall be at Bombay or at such other place as the [Development Bank]¹ may, by notification in the Official Gazette, specify.
- (3) The Trust may establish local offices, branches or agencies at any places in or outside India.
- ²[3A. (1) No individual or group of individuals, or company, other than the Trust, who or which accepts money by way of any loan, deposit, investment or similar other transaction, shall use the word or words "Unit Trust", "Unit" or "Units" as a part of his or its name.
- Explanation :-* For the removal of doubts it is hereby declared that nothing in this sub-section shall be deemed to prevent any individual or group of individuals, or company from describing any scrip or other security issued by him or it for any amount which has been received and repayable by him or it in the course of transaction of any business which is of the nature of a unit trust or mutual fund, as a unit certificate or units, as the case may be.
- (2) If any provision of sub-section (1) is contravened, any person guilty of such contravention shall be punished with fine which may extend to two thousand rupees, and where the contravention is a continuing one, with a further fine which may extend to one hundred rupees for every day after the first during which the contravention continues.
- (3) Where any provision of sub-section (1) has been contravened by a company, every person who at the time of such contravention was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall

Establishment and incorporation of Unit Trust of India

Prohibition against the use of the words "Unit Trust", "Unit" or "Units" as a part of the name of any person other than the Trust.

1. Subs. by Act 52 of 1975, s. 45 (w.e.f. 16-2-1976)

2. Ins. by Act 16 to 1975, s. 3.

be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly;

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

- (4) Notwithstanding anything contained in sub-section (3), where any offence under this section has been committed with the consent or connivance of or attributable to any neglect on the part of, any director, manager, secretary or other officer, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (5) No court shall take cognizance of any offence punishable under this section except upon a complaint in writing made by an officer of the Trust generally or specially authorized in writing in this behalf by the Trust and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try such offence.

Explanation :- For the purposes of this section-

- (a) "company " means any body corporate and includes a firm or other association of individuals; and
- (b) "director", in relation to a firm, means a partner in the firm.]

4. (1) Subject to the provisions of this Act, the initial capital of the Trust shall be five crores of rupees divided in the form of certificates each of which shall be of such face value as may be prescribed and contributed in the manner hereinafter provided.
- (2) Before such date as the Central Government may, by notification in the Official Gazette, specify in this behalf
 - (a) the Reserve Bank shall contribute two and a half crores of rupees;
 - (b) the Life Insurance Corporation shall contribute seventy-five lakhs of rupees;
 - (c) the State Bank and the subsidiary banks shall

Initial
Capital
of Trust.

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

- (d) other institutions, namely, scheduled banks other than those referred to in clause (c) and such classes of financial institutions as may be notified by the Central Government in the Official Gazette in this behalf may contribute one crore of rupees.
- (3) If the aggregate of the contributions made by the institutions referred to in clause (d) of sub section (2) exceeds one crore of rupees, the Board shall refund the excess amount to such institutions, so however, that the amount to be refunded to each such institution bears, as far as possible, the same proportion to the contribution made by it as the excess amount bears to the aggregate of the contributions made by such institutions.
- (4) If the aggregate of the contributions made by the institutions referred to in clause (d) of sub section (2) is less than one crore of rupees, the Reserve Bank shall contribute the deficiency within thirty days of the date specified under sub-section (2) ;

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

- (5) If at any time the Board is of opinion that the amount of the initial capital is in excess of the requirements of the Trust, ¹[the Board may, and if the Central Government being of like opinion so directs, the Board shall, refund the whole or as the case may be so much of such capital as in excess of its requirements] to ²[any contributing institution, and in making any such refund the Board shall not make any discrimination between the institutions referred to in clause (c) of sub-section (2) or between the institutions referred to in clause (d) of that sub-section ;]

Provided that where only a part is so refunded the amount to be refunded to each institution shall bear, as

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- 1. Subs. by Act 63 of 1985, s. 3 (w.e.f. 23-4-1986)
 - 2. Subs. by Act 17 of 1966, s. 3 (w.e.f. 10-6-1966) "The Contributing Institution".

far as possible, the same proportion to the contribution made by it as such part bears to the initial capital ;

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

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|-------|---|--|
| 1[4A. | On such date as the Central Government may, by notification in the Office Gazette, appoint (hereinafter referred to as the notified date), all the contributions made by the Reserve Bank to the initial capital of the Trust, as on the date immediately preceding the notified date, shall stand transferred to, and vested in, the Development Bank. | Transfer of initial capital to Development Bank. |
| 4B. | The Reserve Bank shall be given by the Development Bank in cash, for the transfer to, and vesting in, the Development Bank of the contribution made to the initial capital of the Trust by the Reserve Bank, an amount equal to the contributions to the initial capital so transferred.] | Payment of amount. |
| 5. | The Board shall maintain in such manner as may be prescribed a register containing the names of the contributing institutions, the amount contributed by each such institution and such other particulars as may be prescribed. | Maintenance of register of contributors. |
| 6. | <p>(1) As soon as may be after the contribution has been made by any contributing institution under section 4, the Board shall issue to such contributing institution a contribution certificate or contribution certificates in such form and containing such particulars as may be prescribed.</p> <p>(2) Where the whole or any part of the contribution has been refunded to any institution under sub-section (5) of section 4, that institution shall, as soon as may be after the refund has been made, forward the contribution certificate or certificates to the Board for cancellation or amendment, as the case may be and the Board shall cancel or amend the certificate or certificates accordingly.</p> | Issue of contribution certificates |
| 7. | (1) Any contributing institution referred to in clause (d) of sub-section (2) of section 4 may, in the prescribed manner, transfer a contribution certificate to any other institution referred to in that clause and thereupon such other institution shall be deemed to be a contributing institution for the purpose of this Act. | Right of transfer of contribution certificates in certain cases. |

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

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

Rights and liabilities of holders of contribution certificates.

CHAPTER III

MANAGEMENT OF THE TRUST

9. (1) The general superintendence, direction and management of the affairs and business of the Trust shall vest in a Board of trustees which may exercise all powers and do all acts and things which may be exercised or done by the Trust.
- (2) The Board shall, in discharging its functions under this Act, act on business principles regard being had to the interest of the unit holders.
10. The Board of trustees shall consist of the following, namely :-
- (a) the Chairman to be appointed by the ¹[Central Government in consultation with the Development Bank;]
 - ²[(aa) one trustee to be nominated by the Reserve Bank;]
 - (b) four trustees to be nominated by the ¹[Development Bank] of whom not less than three shall be persons having special knowledge of, or experience in commerce, industry, banking, finance or investment;
 - (c) one trustee to be nominated by the Life Insurance Corporation;
 - (d) one trustee to be nominated by the State Bank;
 - (e) two trustees to be elected in the prescribed manner by the contributing institutions referred to in clause (d) of sub-section (2) of section 4; and
 - (f) an executive trustee to be appointed by the ¹[Development Bank].

Management

Board of trustees.

1. Subs. by Act 52 of 1975. s. 47 (w.e.f. 16-2-1976)

2. Ins. by ibid. (w.e.f. 16-2-1976)

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

Provided further that on the first constitution of the Board, the trustees referred to in clause (e) shall be nominated by the Reserve Bank and shall hold office for a period of twelve months from the date of their nomination or until two trustees are elected under the said clause, whichever may be earlier.

¹[10A. Every person holding office, immediately before the notified date, as Chairman under clause (a) of section 10 or as trustee, not being an officer of the Reserve Bank, nominated under clause (b) of that section or as executive trustee appointed under clause (f) thereof shall, notwithstanding the amendment of this Act by the Public Financial Institutions Laws (Amendment) Act, 1975, continue, subject to the same conditions, to hold office for the unexpired portion of his term.]

Transitional provision for continuance of Chairman and certain trustees of the Board. 52 of 1963

11. (1) A trustee nominated ²[under clause (aa) or under clause (b)] of section 10, if he is an officer of the Reserve Bank, or ³[or the Development Bank] or a trustee nominated under clause (c) or clause (d) of that section shall hold office during the pleasure of the authority nominating him.
- (2) A trustee nominated under clause (b) of section 10, if he is not an officer of the Reserve Bank, ³[or the Development Bank] or a trustee elected under clause (e) of that section shall hold office for four years and thereafter untill his successor is duly nominated or elected.
- (3) A casual vacancy in the office of a trustee referred to in sub-section (2) or in the office of a trustee nominated under the second proviso to section 10 shall be filled by election or nomination, as the case may be, and the trustee so elected or nominated shall hold office for the unexpired portion of the term of his predecessor :

Term of office of trustee.

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

- (4) A trustee nominated under the second proviso to section 10 or a trustee nominated in his place under sub-section

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1. Ins. by Act 52 of 1975, s. 48 (w.e.f. 16-2-1976)
 2. Sub. by s. 49, ibid. (w.e.f. 16-2-1976)
 3. Ins. by s. 49, ibid. (w.e.f. 16-2-1976)

(3) of this section shall be deemed to be a trustee elected under clause (e) of section 10.

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

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

Disquali-
fication for
being a
trustee.

- (a) he is, except in the case of the Chairman or the executive trustee, an officer or other employee of the Trust; or
- (b) he is, or at any time has been adjudicated as insolvent or has suspended payment of his debts or has compounded with his creditors; or
- (c) he is of unsound mind and stands so declared by a competent court; or
- (d) he has been convicted of an offence which, in the opinion of the ¹[Development Bank], involves moral turpitude.

13. (1) If a trustee--

Vacation
and
resignation
of office
of trustee

- (a) becomes subject to any of the disqualifications mentioned in section 12; or
- (b) is absent without leave of the Board from more than three consecutive meetings thereof; or
- (c) being a trustee elected or deemed to be elected under clause (e) of section 10 becomes an officer or other employee of Government or of the Reserve Bank, ²[or of the Development Bank], State Bank, a subsidiary bank or the Trust,

his office shall thereupon become vacant.

- (2) A trustee nominated under clause (b) of section 10 who is not an officer of the Reserve Bank ²[or of the Development Bank], or a trustee elected or deemed to be elected under clause (e) of that section may by letter addressed to the Board resign his office and on such resignation

1. Subs. by Act 52 of 1975, s. 50 (w.e.f. 16-2-1976)

2. Ins. by Act 52 of 1975, s. 51 (w.e.f. 16-2-1976)

being accepted by the Board shall be deemed to have vacated his office.

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

Chairman
and execu-
tive trustee.

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

- (2) The Chairman or the executive trustee shall--
- (a) hold office for such term not exceeding five years as the ¹[Development Bank] may specify ²[and shall be eligible for re-appointment];
 - (b) receive such salary or allowances or both from the Trust and be governed by such terms and conditions of services as the ¹[Development Bank] may determine; and
 - (c) perform such functions as the Board may entrust or delegate to him.

- ³[14A. If the Chairman, whose appointment is whole-time, is of opinion that circumstances exist which render it necessary for him to take immediate action in respect of any matter which is within the competence of the Board and that the interests of the Trust may be prejudicially affected if such action is deferred until after the next meeting of the Board, then, notwithstanding anything contained in clause (c) of sub-section (2) of section 14, the Chairman may take such action in respect of that matter as he deems necessary and for such purpose, he may exercise all powers and do all acts and things which may be exercised or done by the Board, but in every such case, he shall, as soon as may be after the action is taken, make a written report to the Board containing a statement of the action taken and circumstances under which it was taken.]

Emergency
powers of
the whole-
time
Chairman

15. If the Chairman or the executive trustee is by infirmity or otherwise rendered incapable of carrying out his duties or is absent on leave or otherwise, in circumstances not involving the vacation of his appointment, the ⁴[Development Bank]

Casual
vacancy in
office of
Chairman
or execu-
tive trustee.

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- 1. Subs. by Act 52 of 1975, s. 50 (w.e.f. 16-2-1976)
 - 2. Ins. by Act 16 of 1975, s. 4 (retrospectively)
 - 3. Ins. by Act 63 of 1985, s. 4 (w.e.f. 23-4-1986)
 - 4. Subs. by Act 52 of 1975, s. 52.

may nominate another person to act in his place until the date on which the Chairman or the executive trustee, as the case may be resumes his duties.

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

Fees and allowances of certain trustees.

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

17. (1) The Board shall meet not less than six times a year and at least once every two months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.
- (2) The Chairman, or if for any reason he is unable to attend any meeting of the board, any other trustee nominated by him in this behalf or, in the event of such nominated trustee also being unable to attend the meeting or no such nomination having been made by the Chairman, any other trustee elected by the trustees present at the meeting from among themselves, shall preside at the meeting.
- (3) All questions which come up before any meeting of the Board shall be decided by a majority of votes of the trustees present and voting, and, in the event of equality of votes, the Chairman or, in his absence, the person presiding, shall have a second or casting vote.

Meetings of Board

18. (1) There shall be an Executive Committee which shall consist of--
- (a) The Chairman of the Board,
- (b) where an executive trustee has been appointed by the [Development Bank]¹ such executive trustee, and
- (c) two other trustees nominated in this behalf by the [Development Bank]¹
- (2) The Chairman of the Board shall be the Chairman of the Executive Committee.

Executive Committee & Other Committees

- (3) Subject to such general or special directions as the

1. Subs. by Act 52 of 1975, s. 52.

Board may, from time to time, give the Executive Committee shall be competent to deal with any matter within the competence of the Board.

- (4) The Board may constitute such other committees whether consisting wholly of trustees or wholly of other persons or partly of trustees and partly of other persons as it thinks fit and for such purpose as it may decide.
- (5) The Executive Committee or any other committee constituted under this section shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.
- (6) The members of a committee (other than the trustees) shall be paid such fees and allowances for attending its meetings and for attending to any other work of the Trust, as may be prescribed.

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

CHAPTER IV

POWERS AND FUNCTIONS OF THE TRUST

- ¹[19. (1) Subject to the provisions of this Act and the regulations made under section 43, the Trust may carry on and transact any of the following kinds of business in India, namely :-

Business of Trust.

- (1) selling and purchasing units;
- (2) investing in, and acquiring, holding or disposing of, securities and exercising and enforcing, all powers and rights incidental thereto including protection or realisation of such investment and the taking over of the administration of any property offered as security for such investment;
- (3) granting of loans and advance upon the security of any movable or immovable property or otherwise;
- (4) accepting, collecting, discounting, rediscounting, purchasing, selling or negotiating or otherwise dealing with, any bills of exchange, hundies,

1. Subs. by Act 63 of 1985, s. 5 (w.e.f. 23-4-1986)

- promissory notes, coupons, drafts, bills of lading, railway receipts, warehouse receipts, documents of title to goods, warrants, certificates, scrips and other mercantile instruments;
- (5) Purchasing, selling or issuing participation certificates in relation to any loan or advance granted by any public financial institution or scheduled bank or such other institution as may be prescribed;
 - (6) keeping money on deposit with companies or other bodies corporate, scheduled banks or such other institutions as may be prescribed;
 - (7) investing in any special paper or security floated by the Central Government or the Reserve Bank or by any such foreign government or foreign bank as may be prescribed;
 - (8) formulating in relation to any unit scheme, -
 - (a) savings and life insurance plan or plans under which a person may acquire an interest in units in association with or as the agent of, the Life Insurance Corporation or the Central Government, but not including the life insurance business;
 - (b) savings and insurance plan or plans under which a person may acquire an interest in units in association with or as the agent of, the General Insurance Corporation but not including the general insurance business; or
 - (c) any other than plan or plans, under which a person may acquire an interest in units;
 - (9) acquiring immovable property or any interest therein, the development (including construction) and sale of such property and the rendering of financial and other assistance to any person for the acquisition of any immovable property or any interest therein and for the development (including construction) of such property;
 - (10) providing leasing and hire purchase finance to persons, companies, and other bodies corporate;
 - (11) providing merchant banking and investment advisory services;

- (12) extending investment or fund or portfolio management services to persons resident outside India;
- (13) opening of an account or the making of an agency arrangement with a bank incorporated outside India;
- (14) buying or selling of or entering into such other dealings in, foreign exchange, as may be necessary for the discharge of its functions;
- (15) doing any other kind of business connected with mobilisation of savings or investments which the Central Government may authorise;
- (16) generally, doing all such acts and things as may be incidental to or consequential upon the discharge of its functions under this Act.

Explanation :- For the purposes of clause (12) and clause (14), the expressions "persons resident outside India" and "foreign exchange" shall have the meanings respectively assigned to them in section 2 of the Foreign Exchange Regulation Act, 1973.

46 to 1973

(2) Subject to the provisions of this Act and the regulations made under section 43, the Trust may carry on outside India also any of the kinds of business mentioned in clause (1), (2), (4), (6), (7), sub-clause (c) of clause (8) and clause (11), (12), (13) and (15) of sub-section (1).]

- [19A. (1) In entering into any arrangement, under section 19 with any concern, the Trust may impose such conditions as it may think necessary or expedient for protecting the interest of the Trust and for securing that the accommodation granted by it is put to the best use by the industrial concern.

Power to impose conditions, etc

- (2) Where any arrangement entered into by the Trust under section 19 with any concern provides for the appointment by the Trust of one or more directors of such concern, such provision and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the concern, and any provision regarding share qualification, age limit, number of director-ships, removal from office of director and such like conditions contained in any such law or instrument aforesaid, shall

1 of 1956

not apply to any director appointed by the Trust in pursuance of the arrangement as aforesaid.

- (3) Any director appointed as aforesaid shall,
- (a) hold office during the pleasure of the Trust and may be removed or substituted by any person by order in writing by the Trust;
 - (b) not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as a director or anything in relation thereto;
 - (c) not be liable to retirement by rotation and shall not be taken into account for computing, the number of Directors liable to such retirement.

1[19B. (1) Where a company or other body corporate, in branch of any agreement, makes any default in repayment of any loan or advance or any instalment thereof, or in meeting its obligations or otherwise fails to comply with the terms of its agreement with the Trust, then, without prejudice to the provisions of section 69 of the Transfer of Property Act, 1882, any officer of the Trust generally or specially authorised by the Trust in this behalf may apply to the Court for one or more of the following reliefs, namely:-

Special provision for enforcement of claim by the Trust.

- (a) for an order for the sale of the property pledged, mortgaged, hypothecated or assigned to the Trust as security for the loan or advance, or
 - (b) for transferring the management of the company or other body corporate to the Trust, or
 - (c) for an ad interim injunction where there is apprehension of the machinery or the equipment being removed from the premises of the company or other body corporate without the permission of the Trust.
- (2) An application under sub-section (1) shall state the nature and extent of the liability of the company or other to body corporate to the Trust, the grounds on which it is made and such other particulars as may be prescribed.
- (3) When the application is for the reliefs mentioned in sub-clauses (a) and (c) of sub-section (1) the Court

4 of 1882

shall pass an ad interim order attaching the security or so much of the property of the company or other body corporate as would on being sold realise in its estimation an amount equivalent in value to the outstanding liability of the company or other body corporate to the Trust together with the costs of the proceedings taken under this section with or without an ad interim injunction restraining the company or other body corporate from transferring or removing its machinery or equipment.

- (4) Where the application is for the relief mentioned in sub-clause (b) of sub-section (1) the Court shall grant an ad interim injunction restraining the company or other body corporate from transferring or removing its machinery or equipment and issue a notice calling upon the company or other body corporate to show cause on a date to be specified in the notice why the management of the company or other body corporate should not be transferred to the Trust.
- (5) Before passing any order under sub-section (3) or sub-section (4), the Court may, if it thinks fit, examine the officer making the application.
- (6) At the same time as it passes an order under sub-section (3), the Court shall issue to the company or other body corporate a notice accompanied by copies of the order, the application and the evidence, if any, recorded by it calling upon the company or other body corporate to show cause on a date to be specified in the notice why the ad interim order of attachment should not be made absolute or the injunction confirmed.
- (7) If no cause is shown on or before the date specified in the notice under sub-sections (4) and (6), the Court shall forthwith make an ad interim order absolute and direct the sale of the attached property or transfer the management of the company or other body corporate to the Trust or confirm the injunction.
- (8) If cause is shown the Court shall proceed to investigate the claim of the Trust and the provisions of the Code of Civil Procedure, 1908, shall as far as practicable apply to such proceedings.
- (9) On an investigation made under sub-section (8) the Court shall pass an order--
 - (a) confirming the order of attachment and directing the sale of the attached property; or

- (b) varying the order of attachment so as to release a portion of the property from attachment and directing the sale of the remainder of the attached property; or
- (c) releasing the property from attachment, if it is satisfied that it is not necessary in the interests of the Trust; or
- (d) confirming or vacating the injunction; or
- (e) transferring the management of the company or other body corporate to the Trust or rejecting the claim made in this behalf :

Provided that when making any order under clause (c), the Court may make such further orders as it thinks necessary to protect the interest of the Trust, and may apportion the cost of the proceedings in such manner as it thinks fit :

Provided further that unless the Trust intimates to the Court that it will not appeal against any order releasing any property from attachment, such order shall not be given effect to until the expiry of the period fixed under sub-section (12) within which an appeal may be preferred, or if an appeal is preferred, unless the Court empowered to hear appeals from the decisions of the said Court otherwise directs until the appeal is disposed of.

- (10) An Order of attachment or sale of property under this section shall be carried into effect as far as may be practicable in the manner provided in the Code of Civil Procedure, 1908, for the attachment or sale of property in execution of a decree, as if the Trust were the decree-holder. 5 of 1908
- (11) An order under this section transferring the management of a company or other body corporate to the Trust shall be carried into effect, as far as may be practicable, in the manner provided in the Code of Civil Procedure, 1908, for the possession of immovable property or the delivery of movable property in execution of a decree, as if the Trust were the decree-holder. 5 of 1908
- (12) Any party aggrieved by an order under sub-section (7) or sub-section (9) may, within thirty days from the date of the order, appeal to the Court empowered to hear appeals from the decisions of the Court which passed the order and the appellate court may after hearing the parties pass such orders as it thinks proper.

- (13) Nothing in this section shall be construed, where proceedings for liquidation in respect of the company or other body corporate have commenced before an application is made under sub-section (1) as giving to the Trust any preference over the other creditors of the company or other body corporate not conferred on it by any other law.
- (14) For the removal of doubts, it is hereby declared that any Court competent to grant an ad interim, injunction under this section shall also have the power to appoint a receiver and to exercise all other powers incidental thereto.
- (15) For the purpose of this section "Court" means the High Court within the local limits of whose jurisdiction,-
- (i) the defendant or respondent, or where there is more than one defendant or respondent any one of them -
 - (1) has his registered office; or
 - (2) carries on the whole or part of his business, at the time of the commencement of any legal proceedings, against him under this Act; or
 - (ii) the cause of action for such legal, proceedings, wholly or in part, arises.
- (16) The provisions of this section shall not apply to or in relation to any proceedings (whether by way of suits or appeals or other proceedings) under this Act pending before a District Judge or an Additional District Judge or a High Court at the commencement of the Unit Trust of India (Amendment) Act, 1985.]
- ¹[20 (1) The Trust may borrow, whether in India or outside India] from any authority or person, not being Government or the Reserve Bank, against such security and on such terms and conditions as may be agreed upon.
- ²[(2) The Trust may borrow money from the Reserve Bank -
- (i) repayable on demand or on the expiry of a fixed period not exceeding ninety days from the date on which the money is so borrowed, against stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust

Borrowing
Powers.

money by any law for the time being in force in India;

- (ii) repayable on demand or within a period of eighteen months from the date on which the money is so borrowed, against the security of the bonds which the Trust may issue with the approval of the Central Government;
- (iii) On such terms and conditions and against the security of such other property of the Trust as may be specified in this behalf by the Reserve Bank for the purposes of any scheme other than the first unit scheme :

Provided that any amount borrowed under this clause and outstanding at any one time shall not exceed --

- (a) five crores of rupees in respect of each such scheme; and
 - (b) ten crores of rupees in respect of all such schemes in the aggregate.
- (3) The bonds issued by the Trust under sub-section (2) shall be guaranteed by the Central Government as to the repayment of principal and the payment of interest at such rate as may be fixed by the Central Government at the time the bonds are issued.]

¹[20A. ²[The Reserve Bank or the Development Bank may,] from time to time, in its discretion pay to the Trust from out of the amount ²[payable to the Reserve Bank or, as the case may be, the Development Bank] under sub-section (1) of section 25A any sum to be utilised by the Trust solely for meeting the losses arising out of, or any additional amount required in connection with, any variation made by the Trust in the sale or re-purchase price of a unit.

Special contribution by Reserve Bank.

20B. The Trust may receive gifts, grants, donations or benefactions from Government or any other source and such gifts, grants, donations or benefactions shall be treated by the Board as capital or income of the first unit scheme or as the

Grants, donations etc. to Trust.

1. Ins. by Act 17 of 1966, s. 6 (w.e.f. 10-6-1966)

2. Subs. by Act 52 of 1975, s. 54 (w.e.f. 16-2-1976)

case may be, of any subsequent unit scheme according to the purposes for which they are made and in the absence of any indication of such unit scheme or schemes and to such extent as the Board thinks fit.]

- ¹[20C. The rights and interests of the Trust (including any other rights incidental thereto) in relation to any loan or advance granted, or any amount recoverable, by it may be transferred by the Trust, either in whole or in part, by the execution or issue of any instrument, or by the transfer of any instrument by endorsement or in any other manner in which the rights and interests in relation to such loan or advance may be lawfully transferred, and the Trust may, notwithstanding such transfer, act as the Trustee within the meaning of section 3 of the Indian Trusts Act, 1882, for the transferee.]
- Power to transfer rights.
- 2 of 1882
21. (1) For the purpose of providing facilities for participation in the income, profits and gains arising out of the acquisition, holding, management or disposal of securities by the Trust; the Board ²[may make one or more³[unit schemes,] including one or more unit schemes for issuing units to persons resident outside India in such foreign currencies, as the Trust may deem fit.]
- Unit scheme.
- (2) Subject to the provisions of this Act, and the regulations made under section 43, a scheme made under sub-section (1) may provide for --
- ⁴[(a) the issue of units and the face value of each unit:
- Provided that the face value of each unit shall, where such value is in Indian currency, be not less than ten rupees or more than one hundred rupees and where such value is in any foreign currency, be in multiple of ten;"]
- (b) the form and manner in which an application may be made for the purchase of a unit from the Trust;
- (c) the manner in which payment may be made for purchasing a unit from the Trust;
- (d) the issue of unit certificates and the form and manner in which such certificates may be issued;
- (e) the issue of duplicate of any unit certificate in the event of loss or destruction of the original and the fee on the payment of which such duplicate may be issued;

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1. Ins. by Act 63 of 1985, s. 8 (w.e.f. 23-4-1986)
 2. Subs. by Act 17 of 1966 s. 7 (w.e.f. 10-6-1966)
 3. Subs. by Act 63 of 1985 s. 9 (w.e.f. 23-4-1986)
 4. Subs. by Act 63 of 1985 s. 9 (w.e.f. 23-4-1986)

case may be, of any subsequent unit scheme according to the purposes for which they are made and in the absence of any indication of such unit scheme or schemes and to such extent as the Board thinks fit.]

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- Unit scheme.
- (2) Subject to the provisions of this Act, and the regulations made under section 43, a scheme made under sub-section (1) may provide for --
- ⁴[(a) the issue of units and the face value of each unit:
- Provided that the face value of each unit shall, where such value is in Indian currency, be not less than ten rupees or more than one hundred rupees and where such value is in any foreign currency, be in multiplace of ten;"]
- (b) the form and manner in which an application may be made for the purchase of a unit from the Trust;
- (c) the manner in which payment may be made for purchasing a unit from the Trust;
- (d) the issue of unit certificates and the form and manner in which such certificates may be issued;
- (e) the issue of duplicate of any unit certificate in the event of loss or destruction of the original and the fee on the payment of which such duplicate may be issued;

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1. Ins. by Act 63 of 1985, s. 8 (w.e.f. 23-4-1986)
 2. Subs. by Act 17 of 1966 s. 7 (w.e.f. 10-6-1966)
 3. Subs. by Act 63 of 1985 s. 9 (w.e.f. 23-4-1986)
 4. Subs. by Act 63 of 1985 s. 9 (w.e.f. 23-4-1986)

- (f) the procedure for determining the value at which the units may be sold or purchased, from time to time, by the Trust;
 - (g) The recognition of persons as Unit holders;
 - ¹[(ga) the application for, and the holding of, or dealing with, units by any parent of a minor;]
 - (h) the persons to whom, the time at which and the manner in which any payments in respect of a unit shall be made by the Trust;
 - (i) the preparation and maintenance of a register, if any, of unit holders;
 - (j) the conditions, if any, subject to which a unit holder may transfer the unit;
 - (k) any other matter which the Trust may consider to be necessary or proper for the effective implementation of the scheme.
- ²[(2A) Where any parent of a minor holds, deals with or makes any application for the purchase of a unit on behalf of the minor, the provisions of the scheme, in pursuance of which the unit had been issued, shall be binding on the minor.
- (2B) Where the payment of any sum becomes due on, or in respect of, any unit held on behalf of a minor, such payment shall, subject to the provisions of the scheme, be made to the parent by whom the purchase of such unit was applied for or by whom such unit was acquired, as the case may be, and such parent shall be entitled to receive such payment for and on behalf of the minor; and in the event of the death of the said parent, such payment shall be made to the lawful guardian of the minor.

Explanation :- References in this section to "parent" shall be construed as including reference to step-parent.]

- (3) The Board may, from time to time, add to or otherwise amend ³[any scheme] made under sub-section (1).
- (4) ³[Every scheme] made under sub-section (1) and, every amendment thereof under sub-section (3) shall be notified in the Official Gazette.

1. Ins. by Act 16 of 1975, s. 5.
 2. Ins. by Act 16 of 1975, s. 5.
 3. Subs. by Act 17 of 1966, s. 7 (w.e.f. 10-6-1966) for "the scheme".

[CHAPTER V

ALLOCATION AND DISTRIBUTION OF INCOME AND RESERVE FUNDS

22. (1) The capital of the Trust in relation to the first unit scheme shall consist of -- Capital of the Trust
- (i) the intital capital
 - (ii) the unit capital of the scheme,
 - (iii) any reserves created for that şcheme.
 - (iv) any amount borrowed for the purposes of that scheme,
 - (v) any amount received for the purposes of that scheme by way of gifts, grants, donations or benefactions from the Government or any other source and treated as the capital of that scheme under section 20B,
 - (vi) any other capital allocated to that scheme by the Board having regard to the nature of such capital and other relevant factors.
- (2) The capital of the Trust in relation to any subsequent unit scheme shall consist of --
- (i) the unit capital of that scheme,
 - (ii) any reserves created for that scheme,
 - (iii) any amount borrowed for the purpose of that scheme,
 - (iv) any amount received for the purpose of that scheme by way of gifts, grants, donations or benefactions from the Government or any other source and treated as the capital of that scheme under section 20B,
 - (v) any other capital allocated to that scheme by the Board having regard to the nature of such capital and other relevant factors.
- (3) The capital in respect of a unit scheme shall be held separately from capital in respect of any other unit

scheme and such capital shall, subject to the provisions of this Chapter, be applied solely for the purposes of that unit scheme.

23. The income of the Trust shall consist of--

Income of
the Trust.

- (i) in relation to the first unit scheme,--
 - (a) the income arising out of the capital referred to in sub-section (1) of section 22,
 - (b) any gifts, grants, donations or benefactions treated as the income of that scheme under section, 20B, and
 - (c) any other income allocated to the scheme by the Board having regard to the nature of the income and other relevant factors,
- (ii) in relation to any subsequent unit scheme,--
 - (a) the income arising out of the capital referred to in sub-section (2) of section 22,
 - (b) any gifts, grants, donations or benefactions treated as the income of that scheme under section 20B, and
 - (c) any other income allocated to the scheme by the Board having regard to the nature of the income and other relevant factors.

24. The income of the Trust in any year arising out of the first unit scheme shall be allocated to the initial capital and the unit capital thereof in the same proportion as the former bears to the latter at the end of that year.

Allocation
of income
in respect
of first unit
scheme

25. (1) The interest payable for any year for any borrowings by the Trust and the total amount of other expenses incurred by the Trust for that year for the purposes of the first unit scheme shall be allocated and charged to the initial capital and the unit capital thereof in the same proportion as is referred to in section 24.

Allocation
of interest
and other
expenses.

- (2) Notwithstanding anything contained in sub-section (1),

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

- (3) The interest payable for any year for any borrowings by the Trust and the total amount of other expenses incurred by the Trust in that year for the purposes of any subsequent unit scheme shall be charged to the unit capital of such scheme in such manner and to such extent as the Board may, with the previous approval of the '[Development Bank,] determine.
- (4) For purposes of this section, where expenses are incurred in common by the Trust in relation to more than one unit scheme such expenses may be allocated to the different schemes to such extent and in such manner as the Board may, with the previous approval of the '[Development Bank] determine having regard to nature and purposes of the expenses and other relevant factors.

25A. (1) The income allocated to the initial capital in any year reduced by the interest and the amount of other expenses charged for that year to the initial capital may be distributed in the prescribed manner among the contributing institutions in each case in proportion to their respective contributions.

Distribution
of income.

- (2) the income allocated in any year to the unit capital relating to the first unit scheme reduced by the interest and the amount of other expenses charged for that year to such unit capital may, but not less than ninety per cent of such income so reduced, shall, be distributed in respect of that year to the unit holder under that unit scheme.

²["Provided that in relation to any year in which the Trust has declared a dividend of not less than ten per cent, on the unit capital the requirement as to distribution of not less than ninety per cent of such income in such year as so reduced shall not apply."]

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- 1. Subs. by Act 52 of 1975, s. 52 (w.e.f. 16-2-1976)
 - 2. Ins. by Act 63 of 1985, s. 10 (w.e.f. 23-4-1986)

- (3) the income allocated in any year to the unit capital relating to each of the subsequent unit schemes reduced by the interest and the amount of other expenses charged for that year to such unit capital may, having regard to the purposes of that scheme and other relevant factors,--

- (i) be distributed in respect of that year to the unit holders under that scheme in such manner and at such percentage of the income so reduced as the Board may determine; or
- (ii) be carried forward and re-invested or otherwise utilised for the benefit of the unit holders in accordance with the provisions of that scheme.

25B. (1) The Trust may establish one or more reserve funds by transferring such sums as it may deem fit out of the amount of the income of the Trust not distributed to the contributing institutions or unit holders under the provisions of this chapter. Reserve funds.

- (2) Subject to the provisions of this Act, the amount in any reserve fund created specially for the purposes of any unit scheme shall be applied or utilised only for the benefit of the unit holders under that unit scheme and for such purposes and in such manner as the Board may determine.

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

CHAPTER VI

ACCOUNTS AND AUDIT

26. (1) The balance-sheet and accounts of the Trust shall be prepared and maintained in such form and manner as may be prescribed. Preparation of balance-sheet etc., of Trust.
- (2) The Board shall cause the books and accounts of the Trust to be balanced and closed each year as on such date as may be prescribed

27. [(1) The affairs of the Trust shall be audited by one or more Audit.

auditors duly qualified to act as auditor under sub-section (1) of section 226 of the Companies Act, 1956 (1 of 1956) (hereinafter referred to as the auditor) who shall be appointed by the Trust with the previous approval of the '[Development Bank] and shall receive such remuneration as the Trust may fix.]

- (2) The auditor shall be supplied with a copy of the the annual balance-sheet of the Trust and it shall be his duty to examine it together with the accounts and vouchers relating thereto and he shall have a list delivered to him of all books kept by the Trust and shall at all reasonable times have access to the books, accounts, vouchers and other documents of the Trust.
- (3) The auditor may, in relation to such accounts, examine any trustee or any officer or other employee of the Trust and shall be entitled to require from the Board or officers or other employees of the Trust such information and explanation as he may think necessary for the performance of his duties.
- (4) The auditor shall make a report to the Trust upon the annual balance-sheet and accounts examined by him and in every such report he shall state whether in his opinion the balance-sheet is a full and fair balance-sheet containing all necessary particulars and properly drawn up so as to exhibit a true and fair view of the state of affairs of the Trust and in case he had called for any information or explanation from the Board or any officer of the Trust, whether it has been given and whether it is satisfactory.

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

Publication
of annual
accounts
and reports.

- ²"[29. The Reserve Bank or the Development Bank may, from time to time, call upon the Trust to furnish such information as either of the said banks may require, and the Trust shall be bound to furnish the same.]"

Furnishing
of informa-

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1. Subs. by Act 52 of 1975, s. 52 (w.e.f. 16-2-1976)
 2. Subs. by Act 52 of 1975, s. 55 (w.e.f. 16-2-1976)

CHAPTER VII

MISCELLANEOUS

30. In the discharge of its functions under this Act, the Trust shall be guided by such directions in matters of policy involving public interest as the '[Development Bank] may give to it in writing, and if any question arises whether the direction relates to a matter of policy involving public interest, the decision of the '[Development Bank] thereon shall be final. Power of Reserve Bank to give directions.
31. (1) The Trust may appoint such number of officers and other employees as it considers necessary or desirable for the efficient performance of its functions and determine the terms and conditions of their appointment and service. Staff of Trust.
- (2) Without prejudice to the provision of sub-section (1), it shall be lawful for the Trust to utilise, and for the Reserve Bank to make available, the services of such staff of the Reserve Bank on such terms and conditions as may be agreed upon between the Trust and the Reserve Bank.
- 2["(3) Every member of the staff of the Reserve Bank,--
- (a) whose services are being, immediately before the notified date, utilised by the Trust under sub-section (2), or
- (b) whose services, having been made available to the Trust, stand, immediately before the notified date, deputed by the Trust to any other organisation,
- shall, on and from the notified date, be deemed to be appointed by the Trust under sub-section (1) on the same salary, emoluments and other terms and conditions of service to which he was entitled immediately before the notified date;

Provided that every member of the staff aforesaid may, before the expiry of a period of eighteen months from the notified date, elect to go back to the Reserve Bank by exercising an option in writing to that effect, the option once exercised being final, and on the exercise of such option, the Reserve Bank shall, before the expiration of a period of thirty months from the notified date, take back such member of the staff and on such member being taken back by the Reserve Bank, he shall become a member of the staff of the Reserve Bank, and shall cease to be a member of the staff of the Trust.

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1. Subs. by Act 52 of 1975, s. 52 (w.e.f. 16-2-1976)
 2. Ins. by ibid s. 56 (w.e.f. 16-2-1976)

- (4) Notwithstanding anything contained elsewhere in this Act or in any other law or in any contract, for the time being in force, for a temporary period, not being a period exceeding eighteen months from the notified date or the date of commencement of section 5 of the Public Financial Institutions Laws (Amendment) Act, 1975, whichever is earlier, if the Reserve Bank, in consultation with the Trust or the Development Bank, considers it necessary in the interests of the said institutions, to promote any member of the staff of any of the said institutions to a post in either of the other two institutions, it shall be lawful for the Reserve Bank to transfer on promotion any such member of the staff to that other institution, and on such transfer each such member of the staff shall be deemed to be a member of the staff of the institution to which he is so transferred and shall be entitled to the same salary, emoluments and other terms and conditions of service to which he was entitled immediately before the date of such transfer including benefits, if any, arising directly out of such promotion :

Provided that every member of the staff aforesaid may, before the expiry of a period of eighteen months from the notified date or the date of commencement of section 5 of the Public Financial Institutions Laws (Amendment) Act, 1975, whichever is earlier, elect to go back to the institution from which he was so transferred by exercising an option in writing to that effect, the option once exercised being final, and on the exercise of such option, that institution shall, before the expiration of a period of thirty months from the notified date or the date of commencement of section 5 of the Public Financial Institutions Laws (Amendment) Act, 1975, whichever is earlier, take back such member of the staff and on such member being taken back by that institution, he shall become a member of the staff of the institution to which he was earlier transferred.

- (5) Notwithstanding anything contained in any other laws in any agreement, for the time being in force, no member of the staff shall be entitled to claim any compensation for, or in relation to, any matter concerning, his transfer appointment or, as the case may be, return, under sub-sections (3) and (4), and no claim in respect thereof,

shall be entertained by any court, tribunal or other authority.]"

32. (1) Notwithstanding anything contained in ¹[The Wealth-Tax Act, 1957] the income-tax Act, 1961 (43 of 1961), the Super Profits Tax Act, 1963 (14 of 1963), ²[the Companies (Profit) Surtax Act, 1964 (7 of 1964)] or in any other enactment for the time being in force relating to income-tax, super-tax, ²[super profits tax, surtax] or any other tax on income, profits or gains--

Income-tax
and other
taxes.

- (a) the Trust shall not be liable to pay income-tax super-tax, super profits tax, ³[surtax or] any other tax in respect of any income, profits or gains derived by it from any source;

⁴["(aa) in the case of an assessee who is not resident in India, being,--

- (i) an individual who is an Indian or a person of Indian origin, or
(ii) a Hindu undivided family,

there shall not be included in the total Income of such assessee, for the purposes of the Income-tax Act, 1961 (43 of 1961), any income received by such assessee in the previous year in respect of units acquired by such assessee from the Trust, out of funds in a Non-resident (External) Account maintained with any bank in India or by the remittance of funds in foreign exchange, in accordance, in either case, with the provisions of the Foreign Exchange Regulation Act, 1973, or any rules or orders made thereunder"];]

⁵["(b) x x x]

⁴["(bb) in the case of an assessee who is not resident in India, being, an individual who is an Indian or a person of Indian origin, or a Hindu undivided family, wealth-tax shall not be payable by the assessee in respect of, and there shall not be included, the net wealth of the assessee computed under the Wealth-Tax Act, 1957 (27 of 1957), the

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1. Ins. by Act 16 of 1975, s. 6 (w.e.f. 1-4-1975)
 2. Ins. by Act 17 of 1966, s. 10 (w.e.f. 1-4-1964; vide Act 20 of 1967, s. 45)
 3. Ins. by *ibid*.
 4. Ins. by Act 3 of 1976, s. 2.
 5. Omitted by Act 21 of 1984, s. 54 (w.e.f. 1-4-1985)

value of the assets in the form of units acquired from the Trust, out of the funds in a Non-resident (External) Account maintained with any bank in India or by the remittance of funds in foreign exchange, in accordance, in either case, with the provisions of the Foreign Exchange Regulation Act, 1973 (46 of 1973), or any rules or order made thereunder."];

- (c) where a contributing institution is liable to be assessed to super profits tax under the Super Profits Tax Act, 1963 (14 of 1963), or to surtax under the Companies (Profits) Surtax Act, 1964 (7 of 1964) in respect of its contribution to the initial capital, such sum as reduced by the amount of any income-tax and super-tax payable in respect thereof shall be excluded from the total income of the said institution in computing its chargeable profits for the purposes of super profits tax ¹[or surtax].

²[Explanation I. - In this sub-section -

- (a) in ³[clause (aa)], the expressions "previous year" and "total income" shall have the meanings, respectively, assigned to them in the Income-tax Act, 1961 (43 of 1961);
- (b) in ³[clause (bb)], the expressions "assessee" and "net worth" shall have the meanings, respectively, assigned to them in the Income-tax Act, 1957 (27 of 1957).

Explanation II.-- For the Purposes of Sub-section (1) and (2),--

- (a) an assessee shall be deemed to be "not resident in India" if he is a non-resident within the meaning of clause (30) of section 2 of the Income-tax Act, 1961 (43 of 1961);
- (b) a person shall be deemed to be a person of Indian origin if he or either of his parents or any of his grand parents howsoever high in degree of ascent, whether on the paternal side or on the maternal side, was born in India, as defined in the

1. Ins. by Act 3 of 1976, s. 2.

2. Ins. by *ibid.*

3. Subs. by Act 21 of 1984, s. 54 (w.e.f. 1-4-1985)

Government of India Act, 1935, as originally enacted.];

- (2) Notwithstanding anything contained in section 193 or section 194 of the Income-tax Act, 1961 (43 of 1961)-

(a) no deduction of income-tax or super-tax shall be made on any interest or dividend payable to the Trust in respect of any securities or shares owned by it or in which it has full beneficial interest '[x x x x x x]

²(b)[x x x x x x]

²(c)[x x x x x x]

³(3)[x x x x x x]

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| 33. | The Bankers' Books Evidence Act, 1891 shall apply in relation to the Trust as if it were a bank as defined in section 2 of the said Act. | Act 18 of 1891 to apply in relation to Trust. |
| 34. | Every trustee, auditor, officer or other employee of the Trust or any employee of the Reserve Bank whose services are utilised by the Trust under section 31 shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the First Schedule to this Act. | Declaration of fidelity and secrecy. |
| 35. | <p>(1) No act or proceeding of the Board or of any committee of the Trust shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board or committee.</p> <p>(2) No act done by any person acting in good faith as a trustee shall be deemed to be invalid merely on the ground that he was disqualified to be a trustee or that there was any other defect in his appointment.</p> | Defects in appointments not to invalidate acts, etc |
| 36. | <p>(1) Every trustee shall be indemnified by the Trust against all losses and expense incurred by him in, or in relation to, the discharge of his duties except such as are caused by his own wilful act or default.</p> <p>(2) A trustee of the Board shall not be responsible for any other trustee, or for any officer or other employee of the Trust, or for any loss or expenses resulting to the Trust from the insufficiency or deficiency of value of or</p> | Indemnity of trustees. |

1. The word "and", omitted Act 10 of 1965, s. 73 (w.e.f. 1-4-1965).
2. Omitted by s.90 of the Finance Act, 1995 (w.e.f. 1-7-1995)
3. Omitted by s.90 of the Finance Act, 1997 (w.e.f. 1-6-1997)

title to any property or security acquired or taken on behalf of the Trust or the insolvency or wrongful act of any debtor or any person under obligation to the Trust or anything done in good faith in the execution of the duties of his office or in relation thereto.

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| 37. | No suit or other legal proceeding shall lie against the Trust or ¹ [the Reserve Bank or the Development Bank] or any trustee or any officer or other employee of the Trust or ¹ [the Reserve Bank or the Development Bank] or any other person authorised by the Trust to discharge any functions under this Act for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act. | Protection of action taken under this Act. |
| 38. | The Board may, by general or special order, delegate to any officer of the Trust, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers any duties under this Act as it may deem necessary. | Delegation of powers |
| ² [39. | Except to the extent provided in, and except in accordance with the regulations made under this Act, no notice of a trust, express, implied or constructive, shall be receivable by the Trust. | No trust to be taken notice of. |
| 39A. | <p>(1) Notwithstanding anything contained in any other law for the time being in force,-</p> <p>(a) where a nomination in respect of any units has been made in accordance with the regulations made under this Act, the amount payable to the unit holder in respect of the said unit shall, on the death of the unit holder but subject to any right, title, claim or other interest of any other person to or in respect of the said units as provided in such regulation, and subject to any charge or encumbrance over the said units, vest in and be payable to, the nominee;</p> <p>(b) where any person appointed by the Trust as an agent for soliciting or procuring any business, including the sale of units, has nominated, in accordance with the regulations made under this Act, any person or a social or charitable institution, to receive the commission or other remuneration payable to him after his death, such commission or other remuneration shall, on the death of the person making the nomination, be payable to his nominee :</p> | Nomination by unit holders and agents. |

1. Subs. by Act 52 of 1975, s. 57 (w.e.f. 16-2-1976)
 2. Subs. by Act 16 of 1975, s. 7. (w.e.f. 7-1-1975)

Provided that nothing contained in this section shall affect any nomination made before the date on which the Trust Laws (Amendment) Act, 1975, receives the assent of the President.

- (2) A payment by the Trust under sub-section (1) shall be a full discharge to the Trust, from all liability in respect of the units, or, as the case may be, the commission or other remuneration.

39B. Notwithstanding anything contained in any other law for the time being in force, the amount standing to the credit of a contributing institution shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the contributing institution.

Protection of certain amounts from attachment

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

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

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

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

Power of central Government to reconstitute board.

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

- (a) the number of trustee that will constitute the Board;
- (b) the manner in which they shall be chosen;
- (c) their term of office;
- (d) filling of casual vacancies;
- (e) such incidental, consequential and supplementary matters as may be necessary to give effect to the order including the reconstitution of the executive committee or other committees.

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

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

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

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

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

43. (1) '[The Board may, with previous approval of the Development Bank may, by notification in the official Gazette] make regulations not inconsistent with this Act to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act. Regulations.

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

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

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

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

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

- (e) the holding and conduct of elections under this Act, including the final decision on doubts or disputes regarding the validity of elections;
- (f) the fees and allowance that may be paid to the trustees;
- (g) the times and places of the meetings of the Board or of any committee constituted under this Act and the Procedure to be followed at such meetings including the quorum necessary for the transaction of business;
- (h) the fees and allowances that may be paid to the members of a committee, other than trustees;
- ¹[(i) the institutions to which loans or advances may be granted or with which money may be kept in deposit;
 - (ia) special papers or securities floated by governments or banks in which investment may be made;
 - (ib) the particulars which may be included in an application under section 19B;"]
- (j) the manner of distribution of income to the contributing institutions;
- (k) the form and manner in which the balance-sheet and the accounts of the Trust shall be prepared and maintained;
- (l) the date on which the books of accounts of the Trust shall be balanced and closed each year;
- (m) the duties and conduct, salaries and allowances, and other conditions of service of officers and other employees of the Trust;
- (n) the establishment and maintenance of provident or other benefit funds for officers and other employees of the Trust; [xxxxxx]²
- ²[(nn) the extent to which and the circumstances under which nominations may be recognized and trusts may be taken notice of; and]

1. Subs. by Act 63 of 1985, s. 11 (w.e.f. 23-4-86)

2. Omitted and Ins. by Act 16 of 1975, s. 8 (w.e.f. 7-1-1975)

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

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

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

²[44. x x x x x x x x x x x x x x]

³[45. If any difficulty arises in giving effect to the provisions of this Act, as amended by the Public Financial Institutions Laws (Amendment) Act, 1975, the Central Government may, by order, do anything, not inconsistent with such provisions, for the purpose of removing the difficulty :

Power to
remove
difficulty.

provided that no such order shall be made after the expiration of three years from the date of commencement of the said Amendment Act.]"

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1. Ins. by Act 63 of 1985, s. 11 (w.e.f. 23-4-1986)
 2. "Second Schedule", Omitted by Act 56 of 1974, s. 2 and sch.
 3. Ins. by Act 52 of 1975, s. 58 (w.e.f. 16-2-76)

