

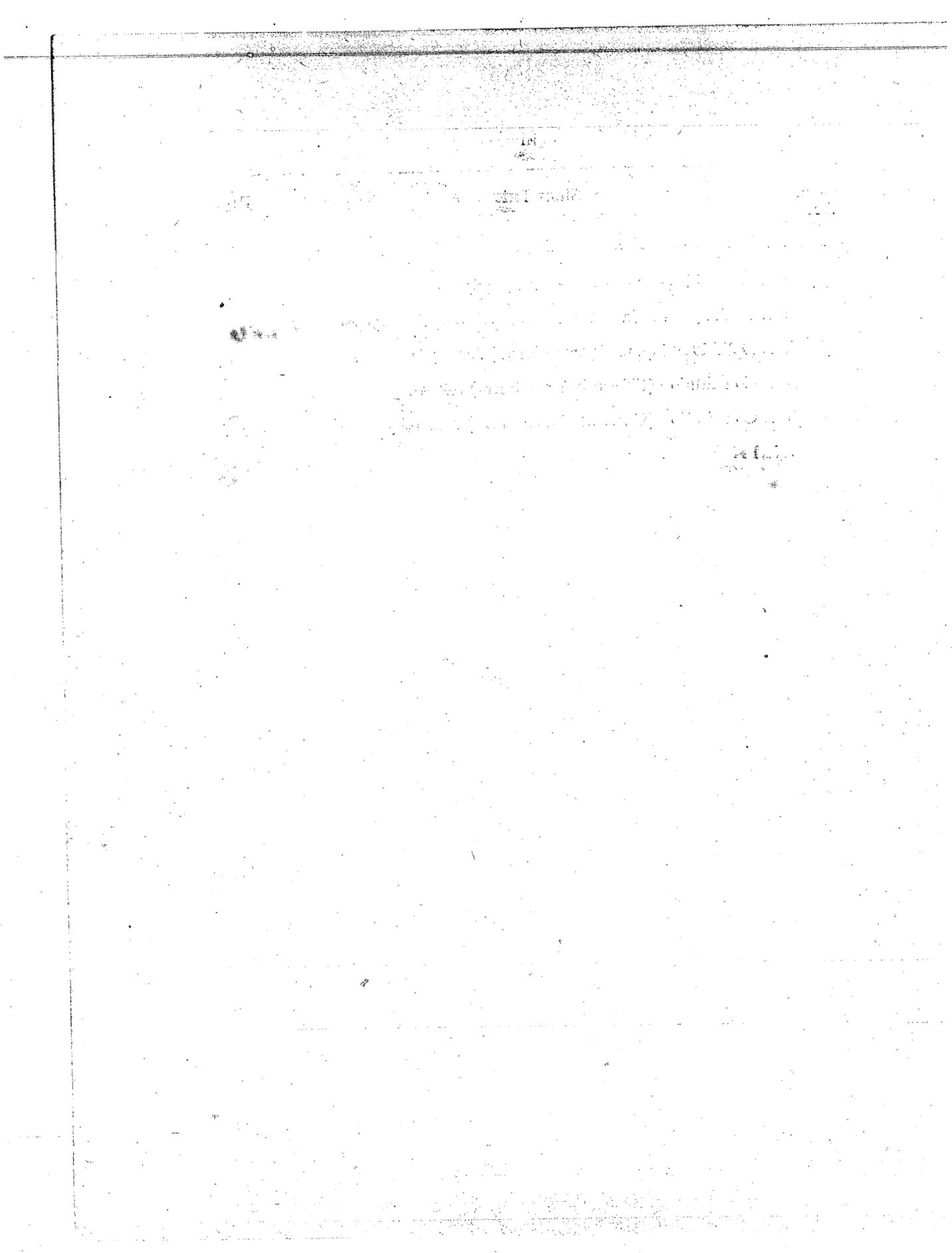
1963

CONTENTS

No. of Act	Short Title	Page
1	The Hindi Sahitya Sammelan (Amendment) Act, 1963	1
2	The Representation of the People (Amendment) Act, 1963 REPEALED	
3	The Indian Tariff (Amendment) Act, 1963 REPEALED	4
4	The Delhi Rent Control (Amendment) Act, 1963 REPEALED	11
5	The Appropriation (Railways) Act, 1963	12
6	The Appropriation (Railways) No. 2 Act, 1963	14
7	The Appropriation Act, 1963	16
8	The Central Sales Tax (Amendment) Act, 1963 REPEALED	20
9	The Appropriation (Vote on Account) Act, 1963	21
10	The Agricultural Refinance Corporation Act, 1963 <i>Not Corrected: See India Code</i>	
11	The Marine Insurance Act, 1963 <i>Not Corrected: See India Code</i>	55
12	The Appropriation (No. 2) Act, 1963	88
13	The Finance Act, 1963	99
14	The Super Profits Tax Act; 1963	132
15	The Bengal Finance (Sales Tax) (Delhi Amendment) Act, 1963 REPEALED	
16	The Appropriation (Railways) No. 3 Act, 1963	153
17	The Appropriation (Railways) No. 4 Act, 1963	155
18	The Appropriation (No. 3) Act, 1963	157
19	The Official Languages Act, 1963 <i>Not Corrected: See India Code</i>	159
20	The Government of Union Territories Act, 1963 <i>Not Corrected: See India Code</i>	162
21	The Compulsory Deposit Scheme Act, 1963 <i>Corrected: See India Code</i>	197
22	The Export (Quality) Control and Inspection Act, 1963 <i>Not Corrected: See India Code</i>	200
23	The Indian Emigration (Amendment) Act, 1963 REPEALED	215
24	The Iron Ore Mines Labour Welfare Cess (Amendment) Act, 1963 REPEALED	220
25	The Appropriation (No. 4) Act, 1963	221
26	The Code of Civil Procedure (Amendment) Act, 1963 REPEALED	223

No. of Act	Short Title	Page
27	The All-India Services (Amendment) Act, 1963 REPEALED	224
28	The Employees' Provident Funds (Amendment) Act, 1963 REPEALED	225
29	The Institutes of Technology (Amendment) Act, 1963	234
30	The Customs and Central Excises (Amendment) Act, 1963 REPEALED	236
31	The Appropriation (Railways) No. 5 Act, 1963	237
32	The Special Marriage (Amendment) Act, 1963 REPEALED	239
33	The Indian Sale of Goods (Amendment) Act, 1963 REPEALED	240
34	The Warehousing Corporations (Amendment) Act, 1963 REPEALED	242
35	The Dramatic Performances (Delhi Repeal) Act, 1963	243
36	The Limitation Act, 1963 Not Corrected. See India Code	244
37	The Personal Injuries (Compensation Insurance) Act, 1963 Not Corrected. See India Code	275
38	The Major Port Trusts Act, 19 63 Not Corrected. See India Code	292
39	The Industrial Employment (Standing Orders) Amendment Act, 1963 REPEALED	352
40	The Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1963 REPEALED	355
41	The Textiles Committee Act, 19 63 Not Corrected. See India Code	359
42	The Drugs and Magic Remedies (Objectionable Advertisements) Amendment Act, 1963 REPEALED	369
43	The Income-tax (Amendment) Act, 1963 REPEALED	375
44	The Appropriation (No. 5) Act, 1963	376
45	The Administrators-General Act, 19 63 Not Corrected. See India Code	378
46	The Appropriation (Railways) No. 6 Act, 1963	402
47	The Specific Relief Act, 1963	404
48	The Requisitioning and Acquisition of Immovable Property (Amendment) Act, 1963 REPEALED	426
49	The East Punjab Ayurvedic and Unani Practitioners (Delhi Amendment) Act, 1963 REPEALED	427
50	The Indian Tariff (Second Amendment) Act, 1963 REPEALED	429
51	The Preventive Detention (Continuance) Act, 1963 REPEALED	433
52	The Unit Trust of India Act, 1963 Not Corrected. See India Code	434
53	The Companies (Amendment) Act, 1963	457

No. of Act	Short Title	Page
54	The Central Boards of Revenue Act, 1963	472
55	The Banking Laws (Miscellaneous Provisions) Act, 1963 REPEALED	476
56	The Delhi Development (Amendment) Act, 1963	494
	The Constitution (Fifteenth Amendment) Act, 1963	510
	The Constitution (Sixteenth Amendment) Act, 1963	513
	INDEX	517



**TABLE SHOWING EFFECT OF PARLIAMENTARY
LEGISLATION OF 1963**

Part L.—Central Acts amended, repealed or otherwise affected

Year of Act	No. of Act	Short title of Act	How affected	No. and sec- tion of 1963 Act by which affected
1	2	3	4	5
1876	12	Dramatic Performances Act, 1876	Repealed, as in force in Delhi (when Mad. Act 33 of 1954 is extended to Delhi).	35, s. 2.
1877	1	Specific Relief Act, 1877	Repealed (w.e.f. 1-3-1964).	47, s. 44.
1882	4	Transfer of Property Act, 1882	Ss. 130A and 135A omitted (w.e.f. 1-8-1963).	11, s. 92.
1882	5	Indian Easements Act, 1882	S. 15 amended (w.e.f. 1-1-1964).	36, s. 28.
1898	6	Indian Post Office Act, 1898	First Schedules substituted.	13, s. 31.
1899	4	Indian Stamp Act, 1899	S. 7 amended (w.e.f. 1-8-1963).	11, s. 92.
1908	5	Code of Civil Procedure, 1908	S. 60 and s. 80 26, ss. 2 and (when notified) 3. amended. S. 48 omitted (w.e.f. 1-1-1964).	26, ss. 2 and 3. 36, s. 28.
1908	9	Indian Limitation Act, 1908.	Repealed (w.e.f. 1-1-1964).	36, s. 32.
1913	3	Administrator-General's Act, 1913.	Repealed (w.e.f. 1-3-1964).	45, s. 64.
1922	7	Indian Emigration Act, 1922	Throughout the Act references to airport added (w.e.f. 1-1-1964); Ss. 1, 2, 4, 9, 15, ¹ Ibid., ss. 3 16, 24 to 27, to 8, 10 to 29, 30A, and 13 and 15 31 amended to 17. (w.e.f. 1-1-1964). S. 22 omitted (w.e.f. 1-1-1964). Ss. 27A, 27B and 27C inserted (w.e.f. 1-1-1964).	23, s. 2. ¹ Ibid., s. 9. ¹ Ibid., s. 14.

I	2	3	4	5
1924	4	Central Board of Revenue Act, Repealed (w.e.f.) 54, s. 8. 1924.	I-1-1964).	
1930	3	Indian Sale of Goods Act, 1930	Ss. 1, 13 and 33, ss. 2 to 4 25 amended. S. 64A substituted. <i>Ibid.</i> , s. 5.	
1934	2	Reserve Bank of India Act, 1934	Ss. 2 and 17 10, s. 47 and amended (w.e.f. Sch. II. 1-5-1963). Ss. 2 and 17 52, s. 44, and amended (w.e.f. Sch. II. 1-2-1964). Ss. 34 and 38 55, ss. 2 and amended (w.e.f. 4. 1-2-1964). S. 36 omitted <i>Ibid.</i> , s. 3. (w.e.f. 1-2-1964). Chapter IIIB <i>Ibid.</i> , s. 5. (ss. 45H, 45I, 45J, 45K, 45L, 45M, 45N, 45O, 45P and 45Q) inserted (w.e.f. 1-2-1964).	
1934	32	Indian Tariff Act, 1934	S. 2A inserted 3, s. 2. (w.e.f. 2-2-1963). First Schedule <i>Ibid.</i> , s. 3. amended (partly w.e.f. 25-1-1963 and partly w.e.f. 2-2-1963). S. 2A amended. 13, s. 22. First Schedule <i>Ibid.</i> , s. 22 amended. and Sch. II First Schedule 50, s. 2. amended (w.e.f. 1-1-1964). S. 32 amended 47, s. 43. (w.e.f. 1-3-1964).	
1940	10	Arbitration Act, 1940		
1944	1	Central Excises and Salt Act, 1944.	First Schedule 13, s. 26. amended. S. 3 amended 30, s. 3. (w.e.f. 1-10-1963). Throughout the 54, s. 5. Act certain words subs- stituted (w.e.f. 1-1-1964).	

I	2	3	4	5
1946	20	Industrial Employment (Standing Orders) Act, 1946.	Ss. 1, 2, 10 and 11 amended (w.e.f. 23-12-1963). S. 12A inserted (w.e.f. 23-12-1963). S. 14A substituted (w.e.f. 23-12-1963).	39, ss. 2 to 5. <i>Ibid.</i> , s. 6. <i>Ibid.</i> , s. 7.
1947	14	Industrial Disputes Act, 1947	S. 2 amended (w.e.f. 1-5-1963). S. 2 amended (w.e.f. 1-2-1964).	10, s. 47 and Sch. II. 52, s. 44 and Sch. II.
1948	15	Industrial Finance Corporation Act, 1948.	S. 20 substituted (w.e.f. 1-2-1964).	52, s. 44 and Sch. II.
1949	1	Indian Tariff (Amendment) Act, 1949.	Ss. 4 and 5 amended.	13, s. 25.
1949	10	Banking Companies Act, 1949	Ss. 5, 10, 12, 18, 20, 21, 26, 30, 34A, 35, 44A, 44B, 45, 45F, 45S, 45T, 46, 47, 49, 49A and 53 amended (w.e.f. 1-2-1964). S. 7 substituted (w.e.f. 1-2-1964). S. 20A inserted (w.e.f. 1-2-1964). Part II A (ss. 36AA, 36AB and 36AC) inserted (w.e.f. 1-2-1964).	55, ss. 6, 8 to 11, 13 to 17 and 19 to 29. <i>Ibid.</i> , s. 7. <i>Ibid.</i> , s. 12. <i>Ibid.</i> , s. 18.
1950	4	Preventive Detention Act, 1950	S. 1 amended.	51, s. 2.
1950	43	Representation of the People Act, 1950.	Fourth Schedule amended. Ss. 4, 13B, 13D and 27A amended (partly w.e.f. 13-5-1963 and partly w.e.f. 1-7-1963). First Schedule, Second Schedule and Fifth Schedule amended (partly w.e.f. 13-5-1963 and partly w.e.f. 1-7-1963).	2, s. 2. 20, s. 57 and Sch. II. <i>Ibid.</i> , s. 57 and Sch. II.

	I	2	3	4	5
1951	43	Representation of the People Act, 1951.	Ss. 4, 15, 32, 36, 55 and 100 amended (partly w.e.f. 13-5-1963 and partly w.e.f. 1-7-1963).	20, s. 57 and Sch. II.	
1951	61	All-India Services Act, 1951	S. 2 amended. S. 2A inserted.	27, s. 2. <i>Ibid.</i> , s. 3.	
1952	19	Employees' Provident Funds Act, 1952.	Ss. 2, 5, 6, 8, 13, 14B and 17 amended (w.e.f. 30-11-1963). Ss. 5A, 5B, 5C, 5D, 5E, 7A, 8A, 17A inserted (w.e.f. 30-11-1963). Schedule II amended. <i>Ibid.</i> , s. 13. (w.e.f. 30-11-1963).	28, ss. 2, 3, 5, 7, 9, 10 and 11.	
1952	30	Requisitioning and Acquisition of Immovable Property Act, 1952.	S. 1 amended.	48, s. 2.	
1953	34	Estate Duty Act, 1953	Throughout the Act certain words substituted (w.e.f. 1-1-1964).	54, s. 5.	
1954	21	Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954.	Ss. 2, 3, 7, 15 and 16 amended. Ss. 8 and 14 substituted. Ss. 9A and 10A inserted. Schedule inserted.	42, ss. 2, 3, 4, 9 and 10. <i>Ibid.</i> , ss. 5 and 8. <i>Ibid.</i> , ss. 6 and 7. <i>Ibid.</i> , s. 11.	
1954	43	Special Marriage Act, 1954	S. 4 amended.	32, s. 2.	
1955	16	Medicinal and Toilet Preparations (Excise Duties) Act, 1955.	Schedule amended.	13, s. 30.	
1955	23	State Bank of India Act, 1955	S. 33 amended (w.e.f. 1-2-1964).	52, s. 44 and Sch. II.	

Effect of Parliamentary Legislation of 1963

v

I	2	3	4	5
1956	1	Companies Act, 1956	Ss. 2, 81, 153, 397, 398, 408 and 637 amended (w.e.f. 1-1-1964). Ss. 10A, 10B, 10C, 10D, 153A and 153B (w.e.f. 1-1-1964), 187B (when notified), and 635A (w.e.f. 1-1-1964) inserted. Pt. IA (s. 10E) inserted (w.e.f. 1-1-1964). Chapter IVA (ss. 388B, 388C, 388D and 388E) inserted (w.e.f. 1-1-1964).	53, ss. 2, 5, 6, 10, 11, 12 and 14. <i>Ibid.</i> , ss. 3, 7, 8 and 13. <i>Ibid.</i> , s. 4.
1956	37	States Reorganisation Act, 1956	S. 15 amended (partly w.e.f. 13-5-1963 and partly w.e.f. 1-7-1963).	20, s. 57 and Sch. II.
1956	74	Central Sales Tax Act, 1956	S. 8 amended (w.e.f. 1-4-1963).	8, s. 2.
1956	103	Territorial Councils Act, 1956	Repealed (w.e.f. 1-7-1963).	20, s. 58.
1957	27	Wealth-tax Act, 1957	S. 5 amended (w.e.f. 1-4-1963). Throughout the Act certain words substituted (w.e.f. 1-1-1964).	13, s. 21. 54, s. 5
1957	29	Expenditure-tax Act, 1957	Throughout the Act certain words substituted (w.e.f. 1-1-1964).	54, s. 5.
1957	61	Delhi Development Act, 1957	Ss. 2 (retrospectively), 3, 5, 7, 12, 23, 29, 30, 34, 39, 41, 49, 52, 53, 55 (partly retrospectively), 56 (partly retrospectively) and 57 (partly retrospectively) amended.	56, ss. 2, 3, 4, 8, 12, 13, 14-16, 19, 21, 23, 24, 25, 27, 28 and 29.

1	2	3	4	5
		Ss. 5A, 22A, 40A 53A and 53B inserted.	<i>Ibid.</i> , ss. 5, 11, 20 and 26.	
		Chapter IIIA (s. 11A) inserted.	<i>Ibid.</i> , s. 7.	
		Ss. 15 (retrospecti- vely), 31, 35, 37 and 42 substituted.	<i>Ibid.</i> , ss. 9, 15, 17, 18, and 22.	
		Ss. 16 to 20 (retros- pectively) omitted.	<i>Ibid.</i> , s. 10.	
1958	18	Gift-tax Act, 1958	Throughout the Act certain words subs- stituted (w.e.f. 1-1-1964).	54, s. 5.
1958	27	Mineral Oil (Additional Duties of Excise and Customs) Act, 1958.	S. 4 omitted (w.e.f. 2-2-1963).	3, s. 4.
1958	32	Public Premises (Eviction of Unauthorised Occupants) Act, 1958.	Ss. 2 (retrospectively) 3, 5, 6, 7, 9, 10 and 13 amended. Ss. 10A, 10B, 10C and 10D inserted.	40, ss. 2 to 8 and 10.
1958	59	Delhi Rent Control Act, 1958	S. 3 amended (retros- pectively).	4, s. 2.
1959	38	State Bank of India (Subsidiary Banks) Act, 1959.	S. 19 amended (w.e.f. 1-2-1964).	55, s. 30.
1961	43	Income-tax Act, 1961	Ss. 2 (retrospectively), 13, ss. 4 to 8 and 13 (retrospectively), 10 to 19, 40 (w.e.f. 1-4-1963), 58 (w.e.f. 1-4-1963), 139 (partly re- trospectively), 146, 209 (w.e.f. 1-4-1963), 210 (w.e.f. 1-4-1963), 215 (w.e.f. 1-4-1963), 220 (retrospective- ly), 223 (retros- pectively), 233, 271, 291 and 297 (re-tros- pectively) amended.	

I

2

3

4

5

			S. 141A (w.e.f. 1-4-1963) inserted.	13, s. 9.
			Second Schedule amended (retros- pectively).	<i>Ibid.</i> , s. 20.
			Supplemented.	14, s. 19.
			S. 33 amended (w.e.f. 1-4-1963).	43, s. 2.
			Throughout the Act certain words subs- stituted (w.e.f. 1-1-1964).	54, s. 5.
1961	58	Iron Ore Mines Labour Welfare Cess Act, 1961.	S. 1 amended.	24, s. 2.
1961	59	Institutes of Technology Act, 1961.	Ss. 2, 3 and 4 (w.e.f. 13-9-1963); 12 (re- trospectively) and 38 (w.e.f. 13-9-1963) amended.	29, ss. 2 to 6.
1962	13	Hindi Sahitya Sammelan 1962.	Ss. 4 (retrospectively), 1, ss. 2, 3 and 4. 5 and 9 amended.	
1962	52	Customs Act, 1962	S. 12 amended (w.e.f. 1-10-1963).	30, s. 2.
			Throughout the Act certain words subs- stituted (w.e.f. 1-1-1964).	54, s. 5.
1962	58	Warehousing Corporations Act, 1962.	S. 3 amended.	34, s. 2.
1963	14	Super Profits Tax Act, 1963	Throughout the Act certain words subs- stituted (w.e.f. 1-1-1964).	54, s. 5.

Effect of Parliamentary Legislation of 1963
Part II. Central Ordinance Repealed

Year of Ordi- nance	No. of Ordi- nance	Short title of Ordinance	How affected	No. and sec- tion of 1963 Act by which affected
1	2	3	4	5
1944	34	Cotton Textiles Fund Ordinance, Repealed (when Com- mittee under s. 3 of Act 41 of 1963 is established).		41, s. 24.

Part III. Acts in force in the Union Territory of Delhi amended

Year of Act	No. of Act	Short title of Act	How affected	No. and section of 1963 Act by which affected
1	2	3	4	5
1941	Ben. Act 6	Bengal Finance (Sales Tax) Act 1941, as in force in Delhi.	S. 5 amended (w.e.f. 1-6-1963).	15, s. 2.
1949	E.P. Act 14	East Punjab Ayurvedic and Unani Practitioners Act, 1949, as in force in Delhi.	Ss. 16, 34 and 37 amended (w.e.f. 15-4-1964).	49, ss. 2, 3 and 4

Part IV. Constitution of India amended

How affected	No. and section of 1963 Act by which affected
1	2
Articles 19 and 84 amended	Constitution (Sixteenth Amendment) Act, 1963, ss. 2 and 3.
Articles 124 and 128 amended	Constitution (Fifteenth Amendment) Act, 1963, ss. 2 and 3.
Article 173 amended	Constitution (Sixteenth Amendment) Act, 1963, s. 4.
Articles 217 (partly retrospectively), 222, 224, 226, 297, 311 and 316 amended	Constitution (Fifteenth Amendment) Act, 1963, ss. 4, 5, 6 and 8 to 11.
Article 224A inserted	<i>Ibid.</i> , s. 7.
Third Schedule amended	Constitution (Sixteenth Amendment) Act, 1963, s. 5.
Seventh Schedule amended (retrospectively)	Constitution (Fifteenth Amendment) Act, 1963, s. 12.

THE HINDI SAHITYA SAMMELAN (AMENDMENT)
ACT, 1963

No. I OF 1963

[25th January, 1963]

An Act to amend the Hindi Sahitya Sammelan Act, 1962.

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

1. This Act may be called the Hindi Sahitya Sammelan Short title. (Amendment) Act, 1963.

13 of 1962.

2. In the Hindi Sahitya Sammelan Act, 1962 (hereinafter referred to as the principal Act), for sub-section (4) of section 4, the following sub-section shall be substituted and shall be deemed always to have been substituted, namely:—

“(4) The first members of the Sammelan shall be—

(a) all persons who, immediately before the appointed day, were members of the Society;

(b) all persons who, before that day, have been Presidents of the Society; and

(c) all persons who, before that day, were awarded the Mangla Prasad Paritoshik by the Society.”

3. In section 5 of the principal Act,—

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

“(b) all property, movable or immovable, of the Society shall be the property of the Sammelan;”;

(ii) in clause (c), the words “be transferred to, and” shall be omitted.

4. In section 9 of the principal Act,—

(i) in sub-section (3), for the word “three”, the word “five” shall be substituted;

(ii) in sub-section (4), for the word “allowances”, the words “salary or allowances or both” shall be substituted.

Rep. by Act 56 of 1974, s. 2 + Sch I

THE REPRESENTATION OF THE PEOPLE
(AMENDMENT) ACT, 1963

No. 2 OF 1963

[25th January, 1963]

An Act further to amend the Representation of the People
Act, 1950.

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

short title.

1. This Act may be called the Representation of the People
(Amendment) Act, 1963.

Amend-
ment of
Fourth
Schedule
Act 43 of
1950.
2. In the Fourth Schedule to the Representation of the People Act,
1950,—

(a) under the heading "ANDHRA PRADESH", for the entries—

"5. Class I Panchayats, that is to say, Panchayats notified
by the State Government in the Official Gazette as
Panchayats which exercise jurisdiction over an area contain-
ing a population of not less than five thousand and whose in-
come for the financial year immediately preceding the date
of the notification was not less than ten thousand rupees.

6. Class II Panchayats which have been notified for
the appointment of whole-time executive officers.",
the following entry shall be substituted, namely:—

"5. Panchayat Samitis";

(b) under the heading "BIHAR", after the entry "4. Notified
Area Committees.", the following entries shall be inserted,
namely:—

"5. Zila Parishads.

6. Panchayat Samitis";

[ACT 2 OF 1963] Representation of the People (Amendment) 3

(c) under the heading "MADRAS", for the entry "4. Class I Panchayats, that is to say, Panchayats notified by the State Government in the Official Gazette as Panchayats which exercise jurisdiction over an area containing a population of not less than five thousand and whose income for the financial year immediately preceding the date of the notification was not less than ten thousand rupees.", the following entry shall be substituted, namely:—

"4. Town Panchayats notified under the Madras Panchayats Act, 1958 (Madras Act XXXV of 1958), that is to say, Panchayats having a population estimated at not less than five thousand and an annual income estimated at not less than ten thousand rupees.";

(d) under the heading "MAHARASHTRA", for the existing entries, the following entries shall be substituted, namely:—

- 1. Municipalities.
- 2. Cantonment Boards.
- 3. Town Committees.
- 4. Zilla Parishads.";

(e) under the heading "UTTAR PRADESH", after the entry "5. Notified Area Committees.", the entry "6. Kshetra Samitis." shall be inserted.

Rep. by Act 56 of 1974, s.2. & Sch I

THE INDIAN TARIFF (AMENDMENT) ACT, 1963

No. 3 OF 1963

[25th January, 1963]

An Act further to amend the Indian Tariff Act, 1934.

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

Short title
and com-
mence-
ment.

1. (1) This Act may be called the Indian Tariff (Amendment) Act, 1963.

(2) This section and clause (7) of section 3 shall come into force at once and the rest of this Act shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

Insertion
of new
section 2A.

2. In the Indian Tariff Act, 1934 (hereinafter referred to as the 32 of 1934.
principal Act), after section 2, the following section shall be inserted,
namely:—

Levy of
counter-
vailing
duty.

2A. (1) Any article which is imported into India shall be liable to customs duty equal to the excise duty for the time being leviable on a like article if produced or manufactured in India.

*Explanation.—*In this sub-section, the expression “the excise duty for the time being leviable on a like article if produced or manufactured in India” means the excise duty for the time being in force which would be leviable on a like article if produced or manufactured in India or if a like article is not so produced or manufactured, which would be leviable on the class or description of articles to which the imported article belongs and where such duty is leviable at different rates, the highest duty.

(2) The customs duty referred to in sub-section (1) shall be in addition to any duty imposed under this Act or under any other law for the time being in force.

¹2-2-1963, vide Notification No. 62(5)-Tar./62, dated 2-2-1963, see Gazette of India, Extraordinary, Pt. I, Sec. 1, p. 49.

3. In the First Schedule to the principal Act,—

(1) in each of the Items Nos. 15(6) and 15(7), in the entries in the fourth and sixth columns, the words "plus the excise duty for the time being leviable on like articles if produced or manufactured in India" shall be omitted;

(2) in Item No. 22(5)(b) (ii), in the entries in the fourth, fifth and sixth columns, the words "plus the excise duty for the time being leviable on like articles if produced or manufactured in India, and where such duty is leviable at different rates, the highest duty" shall be omitted;

(3) in each of the Items Nos. 27(3), 27(5) and 27(7) (b), in the entry in the fourth column, the words "plus the excise duty for the time being leviable on like articles if produced or manufactured in India", wherever they occur shall be omitted;

(4) in Items Nos. 30, 30(2), 30(11), 49(4) and 73(18), in the entries in the fourth and fifth columns, the words "plus the excise duty for the time being leviable on like articles if produced or manufactured in India, and where such duty is leviable at different rates, the highest duty", wherever they occur shall be omitted;

(5) in Item No. 46(6), in the entry in the fourth column, the words "plus the excise duty for the time being leviable on like products if produced or manufactured in India, and where such duty is leviable at different rates, the highest duty" shall be omitted;

(6) in each of the Items Nos. 22(4) (b) (ii), 28(4), 28(8), 28(14), 28(30), 28(34), 29(1), 30(1), 30(3), 30(4), 30(13), 30(14), 30(15), 30(16), 44, 44(4), 47(2), 47(3), 47(4), 47(5), 47(6), 48, 48(2), 48(3), 48(4), 48(5), 48(6), 48(7), 48(8), 48(9), 49(3), 60(2), 60(5), 63(4), 63(10), 66, 66(1), 70(1), 73(7), 73(15) and 75(8), in the entry in the fourth column, the words "plus the excise duty for the time being leviable on like articles if produced or manufactured in India, and where such duty is leviable at different rates, the highest duty", wherever they occur shall be omitted;

(7) Items Nos. 15(11), 28(25), 52(4), 53(2) and 55(2) shall be omitted;

(8) Items Nos. 27(10), 28(35), 28(36), 28(37), 39(4), 42(1), 50(1A), 58(1A), 59(7), 60(9), 63(36), 64(6), 68(5), 72(41), 73(4A), 73(21), 73(22), 73(24), 75(19), 77(1), 79(1), and 82(6) and the entries (including the *Explanation*, if any) relating thereto shall be omitted;

(9) in Item No. 40(2), in the second column headed "Name of article", for the existing entry, the following entry shall be substituted, namely:—

"Furniture and cabinetware, and parts thereof, not otherwise specified, excluding mouldings.";

(10) in Item No. 42, in the second column headed "Name of article", for the existing entry, the following entry shall be substituted, namely:—

"Furniture of wicker-work or bamboo, and parts of such furniture, not otherwise specified.";

(11) in Item No. 45(b), in the second column headed "Name of article", for the existing entry, the following entry shall be substituted, namely:—

"Stationery, not otherwise specified, including drawing and copy books, Christmas, Easter and other cards, including cards in booklet form; including also waste paper, and also parts of such stationery, not otherwise specified.";

(12) in Item No. 71, in the second column headed "Name of article", for the existing entry, the following entry shall be substituted, namely:—

"Hardware, ironmongery and tools, and parts thereof, all sorts, not otherwise specified, including incandescent mantles but excluding machine tools and agricultural implements—

- (a) tools and parts thereof;
- (b) others.";

(13) in Item No. 71(1), in the second column headed "Name of article", for the existing entry, the following entry shall be substituted, namely:—

"The following Hardware, ironmongery and tools, and parts thereof, not otherwise specified, namely, agricultural implements not otherwise specified, buckets of tinned or galvanized iron, and pruning-knives.";

(14) in Item No. 71(3), in the second column headed "Name of article", for the existing entry, the following entry shall be substituted, namely:—

- "(a) Metal furniture and cabinetware;
- "(b) Parts of metal furniture and cabinetware, not otherwise specified.";

(15) in Item No. 71(9), in the second column headed "Name of article", for the existing entry, the following entry shall be substituted, namely:—

- "(a) Stoves for use with Kerosene, Gasolene, or other liquid fuels, and burners therefor;
- "(b) Parts of stoves specified in sub-item (a), not otherwise specified.";

(16) in Item No. 72(31), in the second column headed "Name of article", for the existing entry, the following entry shall be substituted, namely:—

- "(a) Hay presses;
- "(b) Parts of hay presses not otherwise specified";

(17) in Item No. 72(32), in the second column headed "Name of article", for the existing entry, the following entry shall be substituted, namely:—

- "(a) Milking machines;
- "(b) Parts of milking machines not otherwise specified.";

(18) in Item No. 72(38), in the second column headed "Name of article", for the existing entry, the following entry shall be substituted, namely:—

"Ball and roller bearings for use with shaftings of more than 51 millimetres bore diameter and adapter bearings, not otherwise specified, which are specially designed for use exclusively with power driven machinery, and parts of such bearings not otherwise specified.";

(19) in Item No. 73, in the second column headed "Name of article", for the existing entry, the following entry shall be substituted, namely:—

"Electrical instruments, apparatus and appliances, not otherwise specified (excluding telegraphic and telephonic) and parts thereof, not otherwise specified.";

(20) in Item No. 73(1), in the second column headed "Name of article", for the existing entry, the following entry shall be substituted, namely:—

"The following Electrical Instruments, apparatus and appliances other than those specified in Item No. 73(16), and parts thereof not otherwise specified, namely:—

Electrical Control Gear and Transmission Gear, namely, switches (excluding switch boards), fuses and current breaking devices of all sorts and descriptions, designed for use in circuits of less than ten amperes and at a pressure not exceeding 250 volts; and regulators for use with motors designed to consume less than 187 watts; insulated copper wires and cables, any one core of which, not being one specially designed as a pilot core, has a sectional area of less than 8.0645 square millimetres and wires and cables of other metals and alloys of not more than equivalent conductivity, not otherwise specified; and line insulators including also cleats, connectors, leading-in tubes and the like, of types and sizes such as are ordinarily used in connection with the transmission of power for purposes other than industrial, and the fittings thereof but excluding electrical earthenware, brassware and porcelain otherwise specified.";

(21) in Item No. 73(2), in the second column headed "Name of article", for the existing entry, the following entry shall be substituted, namely:—

"The following Electrical Instruments, apparatus and appliances, and parts thereof not otherwise specified, namely, telegraphic and telephonic instruments, apparatus and appliances, not otherwise specified, condensers, and bell apparatus, and switch-boards designed for use in circuits of less than ten amperes and at a pressure not exceeding 250 volts.";

(22) in Item No. 73(9), in the second column headed "Name of article", for the existing entry, the following entry shall be substituted, namely:—

"(a) Electro-medical apparatus;

(b) Parts of electro-medical apparatus, not otherwise specified.";

(23) in Item No. 73(14), in the second column headed "Name of article", for the existing entry, the following entry shall be substituted, namely:—

"Flash lights, and parts thereof, not otherwise specified, including flash light cases.";

(24) in Item No. 73(15), in the second column headed "Name of article", for the existing entry, the following entry shall be substituted, namely:—

"(a) Batteries for motor vehicles (including batteries which are interchangeable for automobile purposes on the one hand and radio, telephone and telegraph on the other) and plates for such batteries;

(b) Parts of batteries specified in sub-Item (a), not otherwise specified.";

(25) in Item No. 73(16), in the second column headed "Name of article", for the existing entry, the following entry shall be substituted, namely:—

"Electrical accessories made of plastics, such as wall plugs, switches, ceiling roses and lamp holders designed for use in circuits of less than ten amperes, and parts of such electrical accessories not otherwise specified.";

(26) in Item No. 75(12), in the second column headed "Name of article", for the existing entry, the following entry shall be substituted, namely:—

"Articles other than rubber tyres, tubes, batteries and such other components as are specified in Items Nos. 72(35), 75(9), 75(10), 75(11), 75(14), 75(15), 75(16) and 75(18) (b) adapted for use as parts and accessories of motor vehicles other than motor cycles and motor scooters.";

(27) in Item No. 77, in the second column headed "Name of article", for the existing entry, the following entry shall be substituted, namely:—

"Instruments, apparatus and appliances other than electrical, all sorts, not otherwise specified, and parts thereof not otherwise specified.";

(28) in Item No. 77(2), in the second column headed "Name of article", for the existing entry, the following entry shall be substituted, namely:—

"(a) Scientific and Surgical instruments, apparatus and appliances;

"(b) Parts of Scientific and Surgical instruments, apparatus and appliances, not otherwise specified.";

(29) in Item No. 77(4), in the second column headed "Name of article", for the existing entry, the following entry shall be substituted, namely:—

"Optical instruments, apparatus and appliances, not otherwise specified, and parts thereof, not otherwise specified.";

(30) in Item No. 77(5), in the second column headed "Name of article", for the existing entry, the following entry shall be substituted, namely:—

"Photographic instruments, apparatus and appliances, and parts thereof, not otherwise specified.";

(31) in Item No. 84(a), in the second column headed "Name of article", for the existing entry, the following entry shall be substituted, namely:—

"(i) Toys, games, and requisites for games and sports (excluding fishing hooks), bird shots, toy cannons; air guns and air pistols for the time being excluded in any part of India from the operation of all the prohibitions and directions contained in the Arms Act, 1959, and bows and arrows;

"(ii) Parts of toys, games and requisites for games and sports (excluding fishing hooks), bird shots, toy cannons; air guns and air pistols for the time being excluded in any part of India from the operation of all the prohibitions and directions contained in the Arms Act, 1959, and bows and arrows; not otherwise specified.";

(32) in Item No. 85(1), in the second column headed "Name of article", for the existing entry, the following entry shall be substituted, namely:—

"Smokers' requisites, excluding tobacco and matches, and parts of such requisites not otherwise specified.";

(33) the Explanation at the end shall be omitted.

*Repeal of
section 4,
Act 27 of
1958.*

4. Section 4 of the Mineral Oil (Additional Duties of Excise and Customs) Act, 1958, is hereby repealed.

Rep. by Act 56 of 1974, S-2

THE DELHI RENT CONTROL (AMENDMENT)
ACT, 1963

No. 4 OF 1963

[8th March, 1963]

An Act to amend the Delhi Rent Control Act, 1958.

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

1. This Act may be called the Delhi Rent Control (Amendment) Short title. Act, 1963.

2. To section 3 of the Delhi Rent Control Act, 1958, the following Amend- proviso shall be added and shall be deemed always to have been ment of section 3. added, namely:—

“Provided that where any premises belonging to Government have been or are lawfully let by any person by virtue of an agreement with the Government or otherwise, then, notwithstanding any judgment, decree or order of any court or other authority, the provisions of this Act shall apply to such tenancy.”

THE APPROPRIATION (RAILWAYS) ACT, 1963

No. 5 OF 1963

[18th March, 1963]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the service of the financial year 1962-63 for the purposes of Railways.

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

Short title. 1. This Act may be called the Appropriation (Railways) Act, 1963.

Issue of Rs. 22,22,58,000 out of the Consolidated Fund of India for the financial year 1962-63. 2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of twenty-two crores, twenty-two lakhs and fifty-eight thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1962-63, in respect of the services relating to Railways specified in column 2 of the Schedule.

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

THE SCHEDULE

(See sections 2 and 3)

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
5	Working Expenses—Repairs and Maintenance.	Rs. 82,000	Rs. 82,000	Rs. 82,000
6	Working Expenses—Operating Staff.	1,28,67,000	..	1,28,67,000
7	Working Expenses—Operation (Fuel).	1,07,73,000	..	1,07,73,000
9	Working Expenses—Miscellaneous Expenses.	1,78,39,000	..	1,78,39,000
13	Open Line Works (Revenue)—Labour Welfare.	22,75,000	..	22,75,000
15	Construction of New Lines.	..	8,93,000	8,93,000
16	Open Line Works—Additions.	8,95,14,000	12,05,000	9,07,19,000
17	Open Line Works—Replacements.	8,55,54,000	12,56,000	8,68,10,000
TOTAL		21,88,22,000	34,36,000	22,22,58,000

THE APPROPRIATION (RAILWAYS) NO. 2 ACT, 1963
No. 6 OF 1963

[23rd March, 1963]

An Act to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of India for the service of the financial year 1963-64 for the purposes of Railways.

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

Short title.

1. This Act may be called the Appropriation (Railways) No. 2 Act, 1963.

**Issue of
Rs. 1,180,31,
34,000 out
of the
Consolidat-
ed Fund of
India for
the finan-
cial year
1963-64.**

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of one thousand, one hundred and eighty crores, thirty-one lakhs and thirty-four thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1963-64, in respect of the services relating to railways specified in column 2 of the Schedule.

**Appropria-
tion.**

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

THE SCHEDULE
(See sections 2 and 3)

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
1	Railway Board	1,07,70,000	..	1,07,70,000
2	Miscellaneous Expenditure	2,90,12,000	3,00,000	2,93,12,000
3	Payments to Worked Lines and Others	31,01,000	..	31,01,000
4	Working Expenses—Administration	42,79,43,000	1,00,000	42,80,43,000
5	Working Expenses—Repairs and Maintenance	137,81,81,000	1,00,000	137,82,81,000
6	Working Expenses—Operating Staff	85,37,14,000	1,00,000	85,38,14,000
7	Working Expenses—Operation (Fuel)	92,10,38,000	1,00,000	92,11,38,000
8	Working Expenses—Operation Other than Staff and Fuel	28,87,95,000	88,97,000	29,76,92,000
9	Working Expenses—Miscellaneous Expenses	32,02,59,000	18,60,000	32,21,19,000
10	Working Expenses—Labour Welfare	13,65,98,000	..	13,65,98,000
11	Working Expenses—Appropriation to Depreciation Reserve Fund	80,00,00,000	..	80,00,00,000
12	Payments to General Revenues	93,10,86,000	..	93,10,86,000
13	Open Line Works (Revenue)	12,49,50,000	50,000	12,50,00,000
14	Construction of New Lines	65,63,44,000	15,00,000	65,78,44,000
15	Open Line Works—Additions and Replacements	433,12,94,000	70,00,000	433,82,94,000
16	Open Line Works—Development Fund	25,98,00,000	2,00,000	26,00,00,000
18	Appropriation to Development Fund	31,00,42,000	..	31,00,42,000
	TOTAL	1,178,29,27,000	2,02,07,000	1,180,31,34,000

THE APPROPRIATION ACT, 1963

No. 7 OF 1963

[23rd March, 1963]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 1962-63.

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

Short title.

1. This Act may be called the Appropriation Act, 1963

Issue of
Rs. 2,71,54,
83,000
out of the
Consolidat-
ed Fund of
India for
the year
1962-63.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of two hundred and seventy-one crores, fifty-four lakhs and eighty-three thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1962-63, in respect of the services specified in column 2 of the Schedule.

Appropria-
tion.

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

THE SCHEDULE
(See sections 2 and 3)

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
1	Ministry of Commerce and Industry . . .	3,53,000	..	3,53,000
8	Ministry of Defence . . .	2,25,000	..	2,25,000
9	Defence Services—Effective—Army . . .	37,10,00,000	..	37,10,00,000
10	Defence Services—Effective—Navy . . .	40,00,000	30,000	40,30,000
16	Tribal Areas . . .	1,25,00,000	..	1,25,00,000
21	Goa, Daman and Diu . . .	50,00,000	..	50,00,000
29	Currency and Coinage . . .	80,00,000	..	80,00,000
30-A	Kolar Gold Mines . . .	1,98,06,000	..	1,98,06,000
31	Pensions and Other Retirement Benefits . . .	35,00,000	..	35,00,000
34	Other Revenue Expenditure of the Ministry of Finance . . .	18,20,00,000	..	18,20,00,000
37	Miscellaneous Adjustments between the Central and State Governments . . .	1,11,000	..	1,11,000
CHARGED.—Payments of States' Share of Union Excise Duties		..	10,54,96,000	10,54,96,000
44	Other Revenue Expenditure of the Ministry of Food and Agriculture . . .	95,54,000	..	95,54,000
48	Ministry of Home Affairs . . .	20,15,000	..	20,15,000
49	Cabinet . . .	3,15,000	..	3,15,000
50	Zonal Councils . . .	6,000	..	6,000
52	Police . . .	4,66,48,000	..	4,66,48,000
53	Census . . .	64,64,000	..	64,64,000
55	Privy Purses of Indian Rulers	23,000	..	23,000
56	Delhi . . .	55,27,000	45,000	55,72,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
63	Ministry of Information and Broadcasting . . .	Rs. 75,000	Rs. 4,000	Rs. 79,000
66	Ministry of Irrigation and Power . . .	Rs. 1,19,000	..	Rs. 1,19,000
67	Multi-purpose River Schemes . . .	Rs. 11,27,000	..	Rs. 11,27,000
72	Other Revenue Expenditure of the Ministry of Labour and Employment . . .	Rs. 16,00,000	..	Rs. 16,00,000
84	Scientific Research and Cultural Affairs	Rs. 9,000	Rs. 9,000
86	Ministry of Steel and Heavy Industries . . .	Rs. 4,92,000	..	Rs. 4,92,000
87	Other Revenue Expenditure of the Ministry of Steel and Heavy Industries . . .	Rs. 14,51,16,000	..	Rs. 14,51,16,000
91	Communications (including National Highways) . . .	Rs. 25,89,000	..	Rs. 25,89,000
92	Mercantile Marine . . .	Rs. 7,65,000	..	Rs. 7,65,000
97	Indian Posts and Telegraphs Department . . .	Rs. 3,44,00,000	..	Rs. 3,44,00,000
99	Ministry of Works, Housing and Supply . . .	Rs. 85,000	..	Rs. 85,000
101	Public Works . . .	Rs. 82,59,000	..	Rs. 82,59,000
102	Stationery and Printing . . .	Rs. 85,00,000	..	Rs. 85,00,000
110	Rajya Sabha . . .	Rs. 2,65,000	..	Rs. 2,65,000
116	Capital Outlay of the Ministry of External Affairs . . .	Rs. 18,00,000	..	Rs. 18,00,000
118	Capital Outlay on Currency and Coinage . . .	Rs. 5,64,00,000	..	Rs. 5,64,00,000
119-A	Capital Outlay on Kolar Gold Mines . . .	Rs. 35,21,000	..	Rs. 35,21,000
120	Commuted Value of Pensions . . .	Rs. 59,000	..	Rs. 59,000
121	Other Capital Outlay of the Ministry of Finance . . .	Rs. 20,27,40,000	..	Rs. 20,27,40,000
123	Loans and Advances by the Central Government . . .	Rs. 10,92,76,000	Rs. 70,00,00,000	Rs. 80,92,76,000

I No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
	CHARGED.—Repayment of Debt		Rs.	Rs.
125	Purchase of Foodgrains	23,48,00,000	..	23,48,00,000
133	Capital Outlay of the Ministry of Mines and Fuel	1,000	..	1,000
135	Capital Outlay of the Ministry of Steel and Heavy Industries	9,08,45,000	..	9,08,45,000
136	Capital Outlay on Roads	..	16,000	16,000
144	Capital Outlay of the Department of Atomic Energy	2,000	..	2,000
	TOTAL	1,57,98,24,000	1,13,56,59,000	2,71,54,83,000

Ref. by Act 56 of 1974, s. 2 + Sch I

THE CENTRAL SALES TAX (AMENDMENT) ACT, 1963

No. 8 OF 1963

[23rd March, 1963]

An Act further to amend the Central Sales Tax Act, 1956.

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

Short title and commencement.

1. (1) This Act may be called the Central Sales Tax (Amendment) Act, 1963.

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

Amendment of section 8.

2. In section 8 of the Central Sales Tax Act, 1956,—

74 of 1956.

(i) in sub-section (1) and in sub-section (2A), for the words "one per cent.", the words "two per cent." shall be substituted;

(ii) in sub-section (2), for the words "seven per cent.", the words "ten per cent." shall be substituted;

(iii) in sub-section (3),—

(a) clause (a) shall be omitted;

(b) in clause (b), the words "in the case of goods other than declared goods" shall be omitted; and

(c) in clause (d), the words, brackets and letter "clause (a) or" shall be omitted.

¹11-4-1963, vide Notification No. G.S.R. 577, dated 28-3-1963, see Gazette of India, Extraordinary, Pt. II, Sec. 3(i), p. 335.

THE APPROPRIATION (VOTE ON ACCOUNT) ACT, 1963

No. 9 OF 1963

[23rd March, 1963]

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of India for the services of a part of the financial year 1963-64.

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

1. This Act may be called the Appropriation (Vote on Account) Short title. Act, 1963.
2. From and out of the Consolidated Fund of India there may be Withdrawal of Rs. 10,18,47,84,000 withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of one thousand and eighteen crores, forty-seven lakhs and eighty-four thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1963-64.
3. The sums authorised to be withdrawn from and out of the Consolidated Fund by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

THE SCHEDULE

(See sections 2 and 3)

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Ministry of Commerce and Industry	6,37,000	..	6,37,000
2	Industries	1,80,66,000	..	1,80,66,000
3	Salt	5,20,000	..	5,20,000
4	Commercial Intelligence and Statistics	7,90,000	..	7,90,000
5	Other Revenue Expenditure of the Ministry of Commerce and Industry	30,91,000	..	30,91,000
6	Ministry of Community Development and Co-operation	2,44,000	..	2,44,000
7	Community Development Projects, National Extension Service and Co-operation	32,96,000	..	32,96,000
8	Ministry of Defence	4,51,000	..	4,51,000
9	Defence Services—Effective	60,28,89,000	92,000	60,29,81,000
10	Defence Services—Non-Effective	1,57,50,000	4,000	1,57,54,000
11	Ministry of Economic and Defence Co-ordination	1,40,000	..	1,40,000
12	Supplies and Disposals	26,80,000	..	26,80,000
13	Other Revenue Expenditure of the Ministry of Economic and Defence Co-ordination	4,74,000	..	4,74,000
14	Ministry of Education	3,67,000	..	3,67,000
15	Education	1,40,42,000	..	1,40,42,000
16	Other Revenue Expenditure of the Ministry of Education	20,59,000	..	20,59,000
17	Tribal Areas	1,14,09,000	..	1,14,09,000
18	Naga Hills-Tuensang Area	50,44,000	..	50,44,000
19	External Affairs	1,40,65,000	..	1,40,65,000

OF 1963]

(Appropriation (Vote on Account)

23

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
20	State of Pondicherry	31,39,000	..	31,39,000
21	Dadra and Nagar Haveli Area	1,17,000	..	1,17,000
22	Goa, Daman and Diu	58,95,000	..	58,95,000
23	Other Revenue Expenditure of the Ministry of External Affairs	40,23,000	..	40,23,000
24	Ministry of Finance	15,62,000	..	15,62,000
25	Customs	34,80,000	4,000	34,84,000
26	Union Excise Duties	87,78,000	5,000	87,83,000
27	Taxes on Income including Cor- poration Tax, etc.	57,36,000	12,000	57,48,000
28	Stamps	25,38,000	..	25,38,000
29	Audit	1,09,26,000	1,85,000	1,11,11,000
30	Currency and Coinage	77,60,000	..	77,60,000
31	Mint	21,04,000	..	21,04,000
32	Kolar Gold Mines	46,51,000	..	46,51,000
33	Pensions and other Retirement Benefits	88,75,000	2,71,000	91,46,000
34	Territorial and Political Pensions	1,91,000	..	1,91,000
35	Opium	2,47,03,000	..	2,47,03,000
36	Other Revenue Expenditure of the Ministry of Finance	7,35,30,000	..	7,35,30,000
37	Planning Commission	7,94,000	..	7,94,000
38	Grants-in-aid to States	12,78,09,000	17,10,75,000	29,88,84,000
39	Miscellaneous Adjustments bet- ween the Central and State Governments	2,09,000	..	2,09,000
40	Pre-Partition Payments	79,000	1,05,000	1,84,000
	CHARGED.—Interest on Debt and other obligations and reduction or avoidance of Debt	..	22,93,67,000	22,93,67,000

No. of Vote	Services and purposes	Sums not exceeding			Total	
		Voted by Parliament	Charged on the Consolidated Fund	Rs.		
			Rs.	Rs.		
41	Ministry of Food and Agriculture	6,86,000	..	6,86,000		
42	Agriculture . . .	26,65,000	..	26,65,000		
43	Agricultural Research . . .	43,10,000	..	43,10,000		
44	Animal Husbandry . . .	8,06,000	..	8,06,000		
45	Forest . . .	8,88,000	..	8,88,000		
46	Other Revenue Expenditure of the Ministry of Food and Agriculture . . .	2,64,97,000	97,000	2,65,94,000		
47	Ministry of Health . . .	1,61,000	..	1,61,000		
48	Medical and Public Health . . .	85,43,000	..	85,43,000		
49	Other Revenue Expenditure of the Ministry of Health . . .	5,62,000	..	5,62,000		
50	Ministry of Home Affairs . . .	37,01,000	..	37,01,000		
51	Cabinet . . .	3,79,000	..	3,79,000		
52	Zonal Councils . . .	20,000	..	20,000		
53	Administration of Justice . . .	23,000	1,74,000	1,99,000		
54	Police	1,34,67,000	..	1,34,67,000		
55	Census	7,79,000	..	7,79,000		
56	Statistics	15,89,000	..	15,89,000		
57	Privy Purses and Allowances of Indian Rulers . . .	1,34,000	1,27,01,000	1,28,35,000		
58	Delhi	1,56,53,000	3,000	1,56,56,000		
59	Himachal Pradesh . . .	92,04,000	..	92,04,000		
60	Andaman and Nicobar Islands . . .	24,61,000	..	24,61,000		
61	Manipur	37,68,000	..	37,68,000		
62	Tripura	69,16,000	..	69,16,000		
63	Laccadive, Minicoy and Amindivi Islands . . .	2,29,000	..	2,29,000		
64	Other Revenue Expenditure of the Ministry of Home Affairs	26,24,000	..	26,24,000		

I No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
65	Ministry of Information and Broadcasting . . .	Rs. 1,46,000	Rs. ..	Rs. 1,46,000
66	Broadcasting . . .	46,82,000	..	46,82,000
67	Other Revenue Expenditure of the Ministry of Information and Broadcasting . . .	33,05,000	..	33,05,000
68	Ministry of Irrigation and Power . . .	2,27,000	..	2,27,000
69	Multi-purpose River Schemes . . .	9,93,000	..	9,93,000
70	Other Revenue Expenditure of the Ministry of Irrigation and Power . . .	45,61,000	..	45,61,000
71	Ministry of Labour and Employment . . .	2,26,000	..	2,26,000
72	Chief Inspector of Mines . . .	2,33,000	..	2,33,000
73	Labour and Employment . . .	68,60,000	..	68,60,000
74	Other Revenue Expenditure of the Ministry of Labour and Employment . . .	17,16,000	..	17,16,000
75	Ministry of Law . . .	3,39,000	..	3,39,000
76	Elections . . .	11,60,000	..	11,60,000
77	Other Revenue Expenditure of the Ministry of Law . . .	36,000	..	36,000
78	Ministry of Mines and Fuel . . .	2,07,000	..	2,07,000
79	Geological Survey . . .	34,62,000	..	34,62,000
80	Other Revenue Expenditure of the Ministry of Mines and Fuel . . .	1,02,04,000	..	1,02,04,000
81	Ministry of Scientific Research and Cultural Affairs . . .	3,11,000	..	3,11,000
82	Archaeology . . .	9,24,000	..	9,24,000
83	Survey of India . . .	30,10,000	..	30,10,000
84	Botanical Survey . . .	2,32,000	..	2,32,000
85	Zoological Survey . . .	1,65,000	..	1,65,000
86	Scientific Research and Cultural Affairs . . .	1,46,47,000	..	1,46,47,000

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
87	Other Revenue Expenditure of the Ministry of Scientific Research and Cultural Affairs .	4,72,000	..	4,72,000
88	Ministry of Steel and Heavy Industries . . .	2,60,000	..	2,60,000
89	Other Revenue Expenditure of the Ministry of Steel and Heavy Industries . . .	2,57,60,000	..	2,57,60,000
90	Ministry of Transport and Communications . . .	8,52,000	..	8,52,000
91	Meteorology . . .	17,61,000	..	17,61,000
92	Central Road Fund . . .	36,25,000	..	36,25,000
93	Communications (including National Highways) . . .	61,49,000	..	61,49,000
94	Mercantile Marine . . .	8,30,000	..	8,30,000
95	Lighthouses and Lightships . . .	9,20,000	..	9,20,000
96	Aviation . . .	45,95,000	..	45,95,000
97	Overseas Communications Service . . .	11,66,000	..	11,66,000
98	Other Revenue Expenditure of the Ministry of Transport and Communications . . .	27,40,000	..	27,40,000
99	Indian Posts and Telegraphs Department (including Working Expenses) . . .	7,97,21,000	5,000	7,97,26,000
100	Posts and Telegraphs Dividend to General Revenues and Appropriations to Reserve Funds . . .	1,66,43,000	..	1,66,43,000
101	Ministry of Works, Housing and Rehabilitation . . .	7,47,000	..	7,47,000
102	Public Works . . .	2,87,54,000	2,68,000	2,90,22,000
103	Stationery and Printing . . .	81,18,000	..	81,18,000
104	Expenditure on Displaced Persons . . .	69,99,000	7,000	70,06,000
105	Other Revenue Expenditure of the Ministry of Works, Housing and Rehabilitation . . .	6,46,000	..	6,46,000

I No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
106	Department of Atomic Energy	1,31,000	..	1,31,000
107	Atomic Energy Research	70,84,000	..	70,84,000
108	Department of Parliamentary Affairs	27,000	..	27,000
109	Lok Sabha . . .	8,02,000	6,000	8,08,000
110	Other Revenue Expenditure of Lok Sabha . . .	42,000	..	42,000
111	Rajya Sabha . . .	3,59,000	6,000	3,65,000
	CHARGED.— <i>Staff, Household and Allowances of the President</i>	2,26,000	2,26,000
112	Secretariat of the Vice-President	10,090	..	10,000
	CHARGED.— <i>Union Public Service Commission</i>	4,10,000	4,10,000
113	Capital Outlay of the Ministry of Commerce and Industry	96,40,000	..	96,40,000
114	Capital Outlay of the Ministry of Community Development and Co-operation . . .	2,66,000	..	2,66,000
115	Defence Capital Outlay . . .	13,23,08,000	1,25,000	13,24,33,000
116	Capital Outlay of the Ministry of Economic and Defence Co-ordination . . .	8,000	..	8,000
117	Capital Outlay of the Ministry of Education . . .	13,000	..	13,000
118	Capital Outlay of the Ministry of External Affairs . . .	10,25,000	..	10,25,000
119	Capital Outlay on the India Security Press . . .	1,55,000	..	1,55,000
120	Capital Outlay on Currency and Coinage . . .	1,19,56,000	..	1,19,56,000
121	Capital Outlay on Mints . . .	1,54,000	..	1,54,000
122	Capital Outlay on Kolar Gold Mines . . .	29,94,000	..	29,94,000
123	Commututed Value of Pensions . . .	8,83,000	10,000	8,93,000
124	Other Capital Outlay of the Ministry of Finance . . .	5,36,38,000	..	5,36,38,000

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
125	Capital Outlay on Grants to States for Development . .	2,04,82,000	..	2,04,82,000
126	Loans and Advances by the Central Government . .	19,54,50,000	45,09,02,000	64,63,52,000
	CHARGED.—Repayment of Debt	6,84,80,00,000	6,84,80,00,000
127	Capital Outlay on Forests . .	83,000	..	83,000
128	Purchase of Foodgrains . .	29,73,00,000	10,000	29,73,10,000
129	Other Capital Outlay of the Ministry of Food and Agriculture	5,47,95,000	1,000	5,47,96,000
130	Capital Outlay of the Ministry of Health	77,46,000	..	77,46,000
131	Capital Outlay of the Ministry of Home Affairs	6,11,000	..	6,11,000
132	Capital Outlay of the Ministry of Information and Broadcasting	24,80,000	..	24,80,000
133	Capital Outlay on Multi-purpose River Schemes	85,72,000	..	85,72,000
134	Other Capital Outlay of the Ministry of Irrigation and Power	1,51,55,000	..	1,51,55,000
135	Capital Outlay of the Ministry of Labour and Employment . .	7,000	..	7,000
136	Capital Outlay of the Ministry of Mines and Fuel	4,36,98,000	..	4,36,98,000
137	Capital Outlay of the Ministry of Scientific Research and Cultural Affairs	25,62,000	..	25,62,000
138	Capital Outlay of the Ministry of Steel and Heavy Industries . .	11,91,24,000	..	11,91,24,000
139	Capital Outlay on Roads . .	5,19,27,000	..	5,19,27,000
140	Capital Outlay on Ports . .	58,53,000.	..	58,53,000
141	Capital Outlay on Civil Aviation	30,48,000	2,000	30,50,000

I No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
I42	Other Capital Outlay of the Ministry of Transport and Communications . . .	60,52,000	..	60,52,000
I43	Capital Outlay on Indian Posts and Telegraphs (not met from Revenue) . . .	3,22,63,000	..	3,22,63,000
I44	Capital Outlay on Public Works	66,17,000	50,000	66,67,000
I45	Delhi Capital Outlay . . .	65,67,000	1,00,000	66,67,000
I46	Other Capital Outlay of the Ministry of Works, Housing and Rehabilitation . . .	75,69,000	1,000	75,70,000
I47	Capital Outlay of the Department of Atomic Energy . . .	1,37,20,000	..	1,37,20,000
GRAND TOTAL . . .		2,47,05,60,000	7,71,42,24,000	10,18,47,84,000

Not Corrected: See India Code Vol. II A, Pt. I, p. 117

THE AGRICULTURAL REFINANCE CORPORATION ACT, 1963

ARRANGEMENT OF SECTIONS

CHAPTER I PRELIMINARY

SECTIONS

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II

ESTABLISHMENT AND CAPITAL OF THE AGRICULTURAL REFINANCE CORPORATION

3. Establishment and incorporation of Agricultural Refinance Corporation.
4. Offices and agencies.
5. Share capital and shareholders.
6. Guarantee by Central Government.
7. Shares of Corporation to be deemed to be securities for certain purposes.
8. Register of shareholders.

CHAPTER III

MANAGEMENT OF THE CORPORATION

9. Management.
10. Board of directors.
11. Term of office and retirement of directors and payment of fees to them.
12. Disqualifications.
13. Vacation and resignation of office by directors.
14. Managing director.
15. Casual vacancies in the office of managing director.
16. Meetings of Board.
17. Committees of Corporation.
18. Member of Board or Committee thereof not to vote in certain cases.

Not Corrected: See India Code

[ACT 10 OF 1963]

Agricultural Refinance Corporation

31

CHAPTER IV

FUNDS AND BUSINESS OF THE CORPORATION

SECTIONS

19. Central Government to make a loan of five crores of rupees.
20. Borrowings by Corporation.
21. Loans in foreign currency.
22. Business which the Corporation may transact.
23. Limit of accommodation.
24. Power to impose conditions for accommodation.
25. Power to call for repayment before agreed period.
26. Deposit accounts and investments.

CHAPTER V

ACCOUNTS AND AUDIT

27. Preparation of balance-sheet, etc., of Corporation.
28. Disposal of profits.
29. Special deposit.
30. Audit.
31. General meetings.
32. Returns.

CHAPTER VI

MISCELLANEOUS

33. Power of Central Government to give directions.
34. Staff of Corporation.
35. Corporation to have access to records.
36. Act 18 of 1891 to apply to books of Corporation.
37. Liquidation of Corporation.
38. Indemnity of directors.
39. Defects in appointment not to invalidate acts, etc.
40. Protection of action taken under the Act.
41. Declaration of fidelity and secrecy.
42. Provisions relating to income-tax and super-tax.
43. Delegation of powers.
44. Penalties.

32 Agricultural Refinance Corporation [ACT 10 OF 1963]

SECTIONS

- 45. Offences by companies.
- 46. Powers of Board to make regulations.
- 47. Amendment of certain enactments.

THE FIRST SCHEDULE—DECLARATION OF FIDELITY AND SECRECY.

THE SECOND SCHEDULE—AMENDMENT OF CERTAIN ENACTMENTS.

Not Corrected: See India Code Vol. IV A, Pt. I, p. 117

THE AGRICULTURAL REFINANCE CORPORATION
ACT, 1963

NO. 10 OF 1963

[24th March, 1963]

An Act to provide for the establishment of a Corporation for granting medium and long term credit by way of refinance or otherwise, for the development of agriculture and for other matters connected therewith or incidental thereto.

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 Agricultural Refinance Corporation Act, 1963. Short title,
extent
and com-
mence-
ment.

(2) It extends to the whole of India.

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

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

(a) "agriculture" includes animal husbandry, dairy farming, pisciculture and poultry farming;

(b) "Board" means the Board of directors of the Corporation;

(c) "central land mortgage bank" means the principal land mortgage bank in a State which is registered, or deemed to be registered, under the Co-operative Societies Act, 1912 or any other law for the time being in force in any State relating to co-operative societies and the primary object of which is the providing of long term finance for agricultural development;

2 of 1912.

¹ 1-5-1963, vide Notification No. G.S.R. 747, dated 26-4-1963, see Gazette of India, Pt. II, Sec. 3(i), p. 883.

Provided that in addition to such principal land mortgage bank in a State or where there is no such bank in a State, the State Government may, with the previous approval of the Reserve Bank, declare any one or more land mortgage banks registered or deemed to be registered as aforesaid and carrying on the business of providing long term finances for agricultural development in that State to be a central land mortgage bank or banks within the meaning of this definition;

(d) "co-operative society" means a society registered, or deemed to be registered, under the Co-operative Societies Act, 1912 or any other law for the time being in force in any State ^{2 of 1912} relating to co-operative societies;

(e) "Corporation" means the Agricultural Refinance Corporation established under this Act;

(f) "eligible institution" means—

(i) a central land mortgage bank or a State co-operative bank or a scheduled bank, being in each case a shareholder of the Corporation; and

(ii) a co-operative society (other than a central land mortgage bank or a State co-operative bank) approved by the Reserve Bank in this behalf;

(g) "Life Insurance Corporation" means the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956;

^{31. of 1956.}

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

(i) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934;

^{2 of 1934.}

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

(k) "State co-operative bank" has the same meaning as in the Reserve Bank of India Act, 1934.

Not Corrected: See India Code

of 1963]

Agricultural Refinance Corporation

35

CHAPTER II

ESTABLISHMENT AND CAPITAL OF THE AGRICULTURAL REFINANCE CORPORATION

3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established for the purposes of this Act a Corporation to be known as the Agricultural Refinance Corporation.

(2) The Corporation shall be a body corporate with the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, and to contract, and may by that name sue and be sued.

4. The Corporation shall establish its head office in Bombay and may, with the previous approval of the Reserve Bank, establish offices or agencies in other places in India.

5. (1) The authorised capital of the Corporation shall be twenty-five crores of rupees divided into twenty-five thousand fully paid-up shares of ten thousand rupees each of which five thousand shares of the total value of five crores of rupees shall be issued in the first instance, and the remaining shares may, with the sanction of the Central Government, be issued from time to time by the Corporation as and when the Corporation may deem fit.

(2) Of the capital issued in the first instance and before such date as may be notified by the Central Government in the Official Gazette in this behalf—

(a) the Reserve Bank shall subscribe for two thousand five hundred shares;

(b) central land mortgage banks and State co-operative banks may subscribe for one thousand five hundred shares;

(c) scheduled banks, the Life Insurance Corporation, insurance and investment companies and such other classes of financial institutions as may be notified by the Central Government in the Official Gazette in this behalf may subscribe for one thousand shares.

(3) The allotment of shares to the institutions mentioned in clauses (b) and (c) of sub-section (2) shall be made by the Board in accordance with the regulations made in this behalf:

Provided that no such institution shall be allotted more than ten per cent. of the shares reserved for the class of institutions to which it belongs.

(4) If any shares referred to in clauses (b) and (c) of sub-section (2) remain unallotted, they shall be subscribed for by the Reserve Bank:

Provided that the Reserve Bank may dispose of the shares subscribed for by it in pursuance of this sub-section, to any institution mentioned in clauses (b) and (c) of sub-section (2), so however that—

(i) the institutions referred to in the said clause (b) shall not together hold more than one thousand five hundred shares and the institutions referred to in the said clause (c) shall not together hold more than one thousand shares, and

(ii) no institution shall hold more than ten per cent. of the shares reserved for the class of institutions to which it belongs.

(5) If and when the remaining shares or any part thereof are issued, the Reserve Bank shall, and the institutions referred to in clauses (b) and (c) of sub-section (2) may, subscribe for such shares in the same proportion as for the first issue and the provisions of sub-sections (3) and (4), except clause (ii) of the proviso to sub-section (4), shall also apply to such shares.

(6) Shares of the Corporation shall not be transferable except—

(a) to the institutions specified in clauses (a), (b) and (c) of sub-section (2), and

(b) in accordance with the regulations made in this behalf.

Guarantee
by Central
Govern-
ment.

6. Shares of the Corporation shall be guaranteed by the Central Government as to the repayment of the principal and the payment of a minimum annual dividend at such rate as may be fixed by the Central Government by notification in the Official Gazette at the time of issuing the shares.

Shares of
Corpora-
tion to be
deemed to
be securi-
ties for
certain
purposes.

7. Notwithstanding anything contained in the Acts hereinafter mentioned in this section, the shares of the Corporation shall be deemed to be included among the securities enumerated in section 20 of the Indian Trusts Act, 1882, and be also deemed to be approved 2 of 1882 securities for the purposes of the Insurance Act, 1938 and the Bank- 4 of 1938 Companies Act, 1949.

8. (1) The Corporation shall maintain at its head office a register of shareholders and shall enter therein the following particulars so far as they may be available, namely:—

- (i) the names and addresses of the shareholders and a statement of the shares held by each shareholder, distinguishing each share by its denoting number;
- (ii) the date on which each person is entered as a shareholder;
- (iii) the date on which any person ceases to be a shareholder; and
- (iv) such other particulars as may be prescribed.

(2) Notwithstanding anything contained in this Act or in any other law for the time being in force, no notice of any trust, express, implied or constructive, shall be entered on the register maintained under sub-section (1) or be receivable by the Corporation.

CHAPTER III

MANAGEMENT OF THE CORPORATION

9. (1) The general superintendence, direction and management of the affairs and business of the Corporation shall vest in a Board of directors which may exercise all such powers and do all such acts and things as may be exercised or done by the Corporation.

(2) The Board, in discharging its functions, shall act on business principles with due regard to public interest.

10. The Board of directors shall consist of the following, namely:—

Board of
directors.

- (a) a Deputy Governor of the Reserve Bank nominated by that Bank, who shall be the Chairman of the Board;
- (b) a director nominated by the Reserve Bank;
- (c) three officers of the Central Government nominated by that Government;
- (d) one director elected in the prescribed manner by such of the central land mortgage banks as are shareholders of the Corporation;

(e) one director elected in the prescribed manner by such of the State co-operative banks as are shareholders of the Corporation;

(f) one director elected in the prescribed manner by the Life Insurance Corporation, scheduled banks, insurance and investment companies and other financial institutions, which are shareholders of the Corporation; and

(g) a managing director to be appointed by the Reserve Bank and, except in the case of the first appointment, after consultation with the Board:

Provided that on the first constitution of the Board, the directors referred to in clauses (d), (e) and (f) shall be nominated by the Central Government and the directors so nominated shall, for the purposes of this Act, be deemed to be elected directors:

Provided further that the directors so nominated shall hold office until the conclusion of the first annual general meeting of the Corporation.

Term of office and retirement of directors and payment of fees to them.

11. (1) A nominated director shall hold office during the pleasure of the authority nominating him.

(2) An elected director, other than a director deemed to be elected under the first proviso to section 10, shall hold office for four years:

Provided that an elected director shall continue in office until his successor has been elected and shall also be eligible for re-election but shall not hold office for more than two consecutive terms.

(3) A casual vacancy in the office of an elected director shall be filled by election and a director so elected shall hold office for the unexpired portion of the term of his predecessor:

Provided that no casual vacancy occurring within three months of the date of expiry of the normal term of office of an elected director need be filled under this sub-section.

(4) Directors shall be paid such fees and allowances as may be prescribed for attending the meetings of the Board or of any of its committees and for attending to any other work of the Corporation:

Provided that no fees shall be payable to the Chairman, managing director or to any other director who is an officer of the Government or of the Reserve Bank.

12. No person shall be a director who—

Disqualifications.

(a) except in the case of the managing director, is a salaried official of the Corporation; or

(b) is, or at any time has been, adjudicated insolvent or has suspended payment of his debts or has compounded with his creditors; or

(c) is of unsound mind and stands so declared by a competent court; or

(d) is or has been convicted of any offence which, in the opinion of the Central Government, involves moral turpitude.

13. (1) If a director—

Vacation and resignation of office by directors.

(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,

his seat shall thereupon become vacant.

(2) Any director elected under clause (d), or clause (e) or clause (f) of section 10 may resign his office by giving notice thereof in writing to the Board and, on such resignation being accepted, shall be deemed to have vacated his office.

14. (1) The managing director shall—

Managing director.

(a) be a whole-time officer of the Corporation;

(b) perform such duties as the Board may entrust or delegate to him;

(c) hold office for such term not exceeding five years as the Reserve Bank may at the time of appointment specify and be eligible for re-appointment; and

(d) receive such salary and allowances and be governed by such terms and conditions of service as the Board, with the previous approval of the Reserve Bank, may determine:

Provided that the first managing director shall receive such salary and allowances and be governed by such terms and conditions of service as the Reserve Bank may determine.

(2) The Reserve Bank may at any time, after consultation with the Board, remove the managing director from office.

Casual
vacancies
in the
office of
managing
director.

15. If the managing director 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 Reserve Bank may, after consultation with the Board, appoint another person to act in his place during his absence.

Meetings
of Board.

16. (1) The Board shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

(2) The Chairman, or, if for any reason he is unable to attend any meeting, any other director elected by the directors present at the meeting shall preside at the meeting of the Board.

(3) All questions which come up before any meeting of the Board shall be decided by a majority of votes of the members present and voting, and, in the event of an equality of votes, the Chairman or, in his absence, the person presiding, shall have a second or casting vote.

Committees
of Corpora-
tion

17. (1) The Board may constitute an Executive Committee consisting of such number of directors as may be prescribed.

(2) The Executive Committee shall discharge such functions as may be prescribed or may be delegated to it by the Board.

(3) The Board may constitute such other committees, whether consisting wholly of directors or wholly of other persons or partly of directors and partly of other persons as it thinks fit and for such purposes as it may decide.

(4) A committee constituted under this section shall meet at such times and places and shall observe such rules and procedure in regard to the transaction of business of its meetings as may be prescribed.

(5) The members of a committee (other than the directors of the Board), shall be paid by the Corporation such fees and allowances as may be prescribed for attending its meetings and for attending to any other work of the Corporation.

Not Corrected: See Indian Code

of 1963]

Agricultural Refinance Corporation

41

18. A director of the Board or a member of a committee who has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board or a committee thereof, shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and the disclosure shall be recorded in the minutes of the Board or the committee, as the case may be, and the director or member shall not take any part in any deliberation or decision of the Board or the committee with respect to that matter.

Member
of Board
or Com-
mittee
thereof
not to vote
in certain
cases.

CHAPTER IV FUNDS AND BUSINESS OF THE CORPORATION

19. The Central Government shall, after due appropriation made by Parliament by law in this behalf, make to the Corporation an interest-free loan of five crores of rupees, repayable in fifteen equal annual instalments commencing on the expiry of a period of fifteen years from the date of receipt of the loan:

Central
Govern-
ment to
make a
loan of five
crores of
rupees.

Provided that the Central Government may, on a request being made to it by the Corporation, increase the number of instalments or alter the amount of any instalment or vary the date on which any instalment is payable.

20. (1) The Corporation may, for the purpose of carrying out its functions under this Act, with the previous approval of the Central Government—

Borrow-
ings by
Corpora-
tion.

(a) issue and sell bonds and debentures carrying interest, which bonds and debentures shall be guaranteed by the Central Government as to the repayment of principal and payment of interest at such rates as may be fixed by the Central Government at the time the bonds or debentures are issued;

(b) borrow money from the Reserve Bank repayable on the expiry of fixed periods not exceeding eighteen months from the date of the making of the loan or advance, against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India;

(c) borrow money from the Central Government and from any other authority or organisation or institution approved by that Government, on such terms and conditions as may be agreed upon; and

(d) accept from the Central Government, a State Government, a local authority, a central land mortgage bank, a State

co-operative bank, a scheduled bank or any person, deposits repayable after the expiry of a period which shall not be less than twelve months from the date of the making of the deposit and on such other terms as the Corporation may, with the prior approval of the Reserve Bank, fix.

(2) The amount of loan granted by the Central Government under section 19 and outstanding, together with the amount of bonds and debentures issued under clause (a) of sub-section (1) and outstanding, the amounts borrowed by the Corporation and outstanding under clauses (b) and (c) of that sub-section and the amount of deposits accepted under clause (d) of that sub-section, shall not at any time in the aggregate exceed twenty times the amount of the paid-up share capital and the reserve fund of the Corporation.

Loans in foreign currency.

21. (1) Notwithstanding anything contained in the Foreign Exchange Regulation Act, 1947, or in any other law for the time being in force relating to foreign exchange, the Corporation may, for the purpose of granting loans and advances to eligible institutions, borrow, with the previous consent of the Central Government, foreign currency from any bank or financial institution in India or elsewhere.

(2) The Central Government may guarantee loans taken by the Corporation under sub-section (1) as to the repayment of principal and the payment of interest thereon and other incidental charges.

(3) All loans and advances made to eligible institutions out of foreign currency borrowed under sub-section (1) shall be granted in Indian currency and shall be repayable by such institutions in Indian currency.

(4) Any loss occurring or profit accruing in connection with any borrowing of foreign currency under sub-section (1) for the purpose of granting loans or advances to any eligible institution or its repayment, on account of any fluctuations in the rates of exchange shall be reimbursed by, or paid to, the eligible institution.

Business which the Corporation may transact.

22. (1) The Corporation may provide such financial assistance to eligible institutions as it considers necessary for promoting the development of agriculture in India and shall not—

(a) transact any business except for that purpose, and

granted, or debentures subscribed for or to be subscribed for, by such Government; and

(f) generally, the doing of all such matters and things as may be incidental to or consequential upon the discharge of its functions under this Act.

(4) No accommodation shall be granted under clauses (a), (b) and (d) of sub-section (3) to an eligible institution unless it is fully and unconditionally guaranteed as to the repayment of principal and payment of interest by Government:

Provided that no such guarantee shall be required in cases in which an eligible institution makes available other security to the satisfaction of the Board:

Provided further that any sums received by a scheduled bank in repayment or realisation of loans and advances refinanced either wholly or partly by the Corporation shall, to the extent of the accommodation granted by the Corporation remaining outstanding, be deemed to have been received by the scheduled bank in trust for the Corporation, and shall accordingly be paid by such scheduled bank to the Corporation.

(5) The Corporation shall not grant any loan or advance on the security of its own shares, bonds or debentures or for the purpose of providing working capital.

(6) The Corporation may receive, for the rendering of any of the services mentioned in sub-section (3), such commission or other consideration as may be agreed upon.

(7) If any question arises whether a transaction undertaken by the Corporation is for the purpose of providing finance or refinance for the development of agriculture in India, the matter shall be referred to the Reserve Bank and the decision of the Reserve Bank thereupon shall be final.

Limit of accommodation.

23. The Corporation shall not, without the prior approval in writing of the Reserve Bank, enter into any transaction under clause (a) or clause (b) or clause (c) of sub-section (3) of section 22 involving an amount exceeding fifty lakhs of rupees.

Power to impose conditions for accommodation.

24. In entering into any transaction under section 22 with an eligible institution, the Corporation may impose such conditions as it may think necessary or expedient for protecting the interests of the Corporation.

(b) grant, except as hereinafter provided, loans and advances otherwise than by way of refinance.

(2) No institution other than an eligible institution shall be entitled to assistance under sub-section (1).

(3) Subject to the provisions of sub-sections (1) and (2), the Corporation may transact the several kinds of business hereinafter specified, namely:—

(a) the granting of loans and advances by way of refinance to an eligible institution mentioned in sub-clause (i) of clause (f) of section 2, repayable within a period not exceeding twenty-five years from the dates on which they are granted;

(b) the granting of loans and advances otherwise than by way of refinance to an eligible institution mentioned in sub-clause (ii) of clause (f) of section 2 repayable within a period not exceeding twenty-five years from the dates on which they are granted;

(c) the subscribing to the debentures of any eligible institution repayable within a period not exceeding twenty-five years from the dates on which they are issued:

Provided that repayment of principal and payment of interest thereon are fully and unconditionally guaranteed by Government;

(d) the guaranteeing, with the prior approval of the Central Government and on such terms and conditions as may be agreed upon, of deferred payments in connection with the purchase of capital goods from outside India,

(i) due from an eligible institution mentioned in sub-clause (ii) of clause (f) of section 2; or

(ii) due from any other person and guaranteed to the Corporation by one of the eligible institutions mentioned in sub-clause (i) of clause (f) of section 2;

(e) acting as agent for the Central Government or a State Government in the transaction of any business with an eligible institution in respect of loans and advances granted or to be

Not Corrected. See

of 1963]

Agricultural Refinance Corporation

45

25. Notwithstanding anything to the contrary contained in any agreement, the Corporation may, by notice in writing, require any eligible institution to which it has granted any loan or advance to discharge forthwith in full its liabilities to the Corporation:—

Power to call for repayment before agreed period.

(a) if it appears to the Board that false or misleading information in any material particular was given in the application for the loan or advance; or

(b) if the eligible institution has failed to comply with any of the terms of its contract with the Corporation in the matter of the loan or advance; or

(c) if there is a reasonable apprehension that the eligible institution is unable to pay its debts or that proceedings for liquidation may be commenced in respect thereof; or

(d) if for any reason it is necessary to do so to protect the interests of the Corporation.

26. All moneys belonging to the Corporation which may not for the time being be required by it shall be invested in promissory notes, stock or securities of the Central Government and all other moneys shall be deposited with the Reserve Bank or with any agency of the Reserve Bank or, in consultation with the Reserve Bank, with a State co-operative bank or a scheduled bank.

Deposit accounts and investments.

CHAPTER V

ACCOUNTS AND AUDIT

27. (1) The balance-sheet and accounts of the Corporation shall be prepared and maintained in such form and manner as may be prescribed.

Preparation of balance-sheet, etc., of Corporation.

(2) The Board shall cause the books and accounts of the Corporation to be balanced and closed as on the thirtieth day of June, each year.

28. (1) The Corporation shall establish a reserve fund by transferring such sums as it may deem fit out of its net annual profits before declaring a dividend.

Disposal of profits.

(2) After making provision for bad and doubtful debts, depreciation of assets and all other matters which are usually provided for by

bankers, the Corporation may out of its net annual profits declare a dividend:

Provided that for so long as the reserve fund is less than the paid-up share capital of the Corporation and until there have been repaid to the Central Government such sums, if any, as that Government may have paid under the guarantee given in pursuance of section 6 or under any guarantee given in pursuance of sub-section (1) of section 20 or sub-section (2) of section 21, the rate of such dividend shall not exceed the rate guaranteed by the Central Government under section 6.

Special deposit.

29. (1) For a period of fifteen accounting years following the accounting year during which the Corporation is established, all dividends accruing on the shares of the Corporation held by the Reserve Bank shall, instead of being paid to that Bank, be held by the Corporation as a special deposit in a separate account and no interest shall be payable on such deposit.

(2) On the expiry of the period referred to in sub-section (1), the Corporation shall, if so required by the Reserve Bank, pay to it the said special deposit and in case the Reserve Bank does not require the same to be paid to it, continue the said special deposit on such terms and on such conditions, including payment of interest, and for such period as may be mutually agreed upon between the Corporation and the Reserve Bank.

(3) No shareholder of the Corporation other than the Reserve Bank shall have any claim to the special deposit referred to in sub-section (1).

Audit.

30. (1) The affairs of the Corporation shall be audited by an auditor duly qualified to act as auditor under sub-section (1) of section 226 of the Companies Act, 1956, who shall be appointed by the Board with the previous approval of the Reserve Bank and shall receive such remuneration from the Corporation as the Board may, with the approval of the Reserve Bank, fix:

Provided that the first auditor shall be appointed by the Reserve Bank within one month from the establishment of the Corporation on such terms and conditions as the Reserve Bank may determine.

(2) The auditor so appointed shall hold office from the conclusion of an annual general meeting of the Corporation until the conclusion of the next annual general meeting:

Provided that the first auditor shall hold office until the conclusion of the first annual general meeting.

(3) The auditor shall be supplied with a copy of the annual balance-sheet of the Corporation 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 Corporation and shall at all reasonable times have access to the books, accounts, vouchers and other documents of the Corporation.

(4) The auditor may, in relation to the accounts of the Corporation, examine any director of the Board or any officer or employee of the Corporation, and shall be entitled to require from the officers of the Corporation such information and explanation as he may think necessary for the performance of his duties.

(5) The auditor shall make a report to the Corporation 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 Corporation and in case he had called for any explanation or information from the Board, whether it has been given and whether it is satisfactory.

(6) Without prejudice to anything contained in the preceding subsections, the Central Government may at any time appoint the Comptroller and Auditor-General of India to examine and report upon the accounts of the Corporation, and any expenditure incurred by him in connection with such examination and report shall be payable by the Corporation to the Comptroller and Auditor-General of India.

31. (1) A general meeting shall be held annually (hereinafter referred to as the annual general meeting) at a place in India where there is an office of the Corporation within three months from the date on which the annual accounts of the Corporation are closed, and any other general meeting may be convened by the Board at any other time:

Provided that the Central Government may extend the time within which any annual general meeting shall be held, by a period not exceeding one month.

(2) The shareholders present at the annual general meeting shall be entitled to discuss the annual accounts, the report of the Board on the working of the Corporation throughout the year and the auditor's report on the annual balance sheet and accounts.

Returns.

32. (1) The Corporation shall furnish, from time to time, to the Central Government and to the Reserve Bank such returns as the Central Government or the Reserve Bank may require.

(2) The Corporation shall furnish to the Central Government and the Reserve Bank within fifteen days of the conclusion of the annual general meeting in respect of any year, a copy of its balance-sheet as on the close of that year together with a profit and loss account for the year and a report of the working of the Corporation during the year, and copies of the said balance-sheet, profit and loss account and report shall be published in the Official Gazette and shall be laid before each House of Parliament.

CHAPTER VI

MISCELLANEOUS

Power of
Central
Govern-
ment to
give direc-
tions.

33. In the discharge of its functions under this Act, the Corporation shall be guided by such directions in matters of policy involving public interest as the Central Government may after consulting the Reserve Bank 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 Central Government thereon shall be final.

Staff of
Corpora-
tion.

34. (1) The Corporation may appoint such number of staff as it considers necessary or desirable for the efficient performance of its functions and determine the terms and conditions of their appointment and service.

(2) Without prejudice to the provisions of sub-section (1), it shall be lawful for the Corporation 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 Corporation and the Reserve Bank.

Corpora-
tion to
have ac-
cess to
records.

35. (1) The Corporation shall have free access to all such records of an eligible institution or any person availing of a loan or advance from such eligible institution perusal whereof may appear to the Corporation to be necessary in connection with the providing of finance or other assistance to such eligible institution or the refinancing of the loan or advance made to such person by the eligible institution.

(2) The Corporation may require any eligible institution or person referred to in sub-section (1) to furnish to it copies of any of the records referred to in that sub-section and the eligible institution or the person, as the case may be, shall be bound to comply with such requisition.

Not Corrected: See India Order

of 1963]

Agricultural Refinance Corporation

49

36. The Corporation shall be deemed to be a bank for the purposes of the Bankers' Books Evidence Act, 1891.

Act 18 of
1891 to
apply to
books of
Corpora-
tion.

37. No provision of law relating to the winding up of companies or corporations shall apply to the Corporation, and the Corporation shall not be placed in liquidation save by order of the Central Government and in such manner as it may direct.

Liquidation
of
Corpora-
tion.

38. (1) Every director shall be indemnified by the Corporation against all losses and expenses incurred by him in, or in relation to, the discharge of his duties, except such as are caused by his own wilful act or default.

Indemnity
of direc-
tors.

(2) A director shall not be responsible for any other director or for any officer or other employee of the Corporation or for any loss or expenses resulting to the Corporation from the insufficiency or deficiency of value of, or title to, any property or security acquired or taken on behalf of the Corporation or the insolvency or wrongful act of any debtor or any person under obligation to the Corporation or anything done in good faith in the execution of the duties of his office in relation thereto.

39. (1) No act or proceeding of the Board or of any committee of the Corporation shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board or committee or on the ground of any director or member of any committee having acted or taken part in any proceeding in contravention of section 18.

Defects in
appoint-
ment not
to invali-
date acts,
etc.

(2) No act done by any person acting in good faith as a director of the Board or as a member of a committee of the Corporation shall be deemed to be invalid merely on the ground that he was disqualified to be a director or that there was any other defect in his appointment.

40. No suit or other legal proceeding shall lie against the Corporation or any director or any officer of the Corporation or any other person authorised by the Corporation to discharge any functions under this Act for any loss or 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 the
Act.

41. Every director, auditor, officer, or other employee of the Corporation or an employee of the Reserve Bank, whose services are utilised by the Corporation under sub-section (2) of section 34, 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.

Declara-
tion of
fidelity and
secrecy.

Provisions
relating
to income-
tax and
super-tax.

42. Any sum paid by the Central Government under the guarantee given in pursuance of section 6 or, under any guarantee given in pursuance of sub-section (1) of section 20 or sub-section (2) of section 21 shall not be treated as the income, profits and gains of the Corporation, and any interest paid by the Corporation on debentures or bonds or on foreign currency borrowed under sub-section (1) of section 21 out of such sum shall not be treated for the purpose of income-tax or super-tax as expenditure incurred by it:

Provided that in the case of any shareholder such portion of a dividend as has been paid out of any such sum advanced by the Central Government shall be deemed to be his income from interest on securities declared to be income-tax free within the meaning of clause (i) of section 86 of the Income-tax Act, 1961.

43 of 1961

Delegation
of powers.

43. The Board may, by general or special order, delegate to any committee of the Board or to the Chairman or managing director or any other officer of the Corporation, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and duties under this Act as it may deem necessary.

Penalties.

44. (1) Whoever in any return, balance-sheet, or other document or in any information required or furnished 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 the provisions of this Act, it is his duty to produce or furnish, he shall be punishable with a fine which may extend to two thousand rupees in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to one hundred rupees for every day during which the failure continues after conviction for the first such failure.

Offences
by com-
panies.

45. (1) Where an offence has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he

proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

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

46. (1) The Board may, with the previous approval of the Reserve Bank 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.

Powers of
Board to
make regu-
lations.

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

(a) the manner in which and the conditions subject to which the first allotment of shares of the Corporation shall be made;

(b) the manner in which and the conditions subject to which the shares of the Corporation may be held and transferred, and generally all matters relating to the rights and duties of the shareholders;

(c) the holding and conduct of elections under this Act, including the final decision on doubts or disputes regarding the validity of elections;

(d) the manner in which general meetings shall be convened, the procedure to be followed thereat and the manner in which voting rights may be exercised;

(e) the fees or allowances that may be paid to the directors;

(f) 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;

- (g) the number of directors constituting the Executive Committee, and the functions that such committee shall discharge;
- (h) the functions which any other committee may discharge under this Act;
- (i) the fees and allowances that may be paid to the members of a committee other than directors;
- (j) the manner and terms of issue and redemption of bonds and debentures by the Corporation;
- (k) the conditions which the Corporation may impose in granting loans and advances;
- (l) the manner and conditions subject to which the Corporation may borrow in foreign currency;
- (m) the form and manner in which the balance-sheet and the accounts of the Corporation shall be prepared or maintained;
- (n) the forms of returns and statements required under this Act;
- (o) the duties and conduct, salaries, allowances and conditions of service of officers and other employees;
- (p) the establishment and maintenance of provident or other benefit funds for employees of the Corporation; and
- (q) generally, the efficient conduct of the affairs of the Corporation.

(3) Any regulation 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 Corporation; and any regulation so made may be altered or rescinded by the Board in the exercise of its powers under this Act.

(4) No regulations made under this Act shall have effect until they are published in the Official Gazette.

(5) All regulations made under this Act shall be placed before each House of Parliament.

47. The enactments specified in the Second Schedule to this Act shall be amended in the manner provided therein.

Amend-
ment of
certain
enactments.

Not Corrected: See end of Order

or 1963]

Agricultural Refinance Corporation

53

THE FIRST SCHEDULE

(See section 41)

Declaration of fidelity and secrecy

I do hereby declare that I will faithfully, truly and to the best of my skill and ability execute and perform the duties required of me as director, auditor, officer or other employee (as the case may be) of the Agricultural Refinance Corporation and which properly relate to the office or position held by me in the said Corporation.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the Agricultural Refinance Corporation or to the affairs of any person having any dealing with the said Corporation; nor will I allow any such person to inspect or have access to any books or documents belonging to or in the possession of the Agricultural Refinance Corporation and relating to the business of the said Corporation or the business of any person having any dealing with the said Corporation.

(Signature.)

Signed before me.

THE SECOND SCHEDULE

(See section 47)

Amendment of certain enactments

FART I

AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934 (2 OF 1934)

Amendments

1. In section 2, for clause (a), substitute the following clauses namely:—

“(a) “Agricultural Refinance Corporation” means the Agricultural Refinance Corporation established under section 3 of the Agricultural Refinance Corporation Act, 1963;

(aa) "the Bank" means the Reserve Bank of India constituted by this Act;.

2. In section 17,—

(a) after clause (4D), insert the following clause, namely:—

"(4E) the making to the Agricultural Refinance Corporation of loans and advances repayable on the expiry of fixed periods not exceeding eighteen months from the date of the making of the loan or advance, against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India.";

(b) in clause (8A), after the words "the capital of", insert the words "the Agricultural Refinance Corporation,".

PART II

AMENDMENT TO THE INDUSTRIAL DISPUTES ACT, 1947 (14 OF 1947)

In section 2, in sub-clause (i) of clause (a), after the words "to any industrial dispute concerning" insert the words "the Agricultural Refinance Corporation established under section 3 of the Agricultural Refinance Corporation Act, 1963, or".

Not Corrected: *See India Code Vol. IV A, Pt. II, p 305*

THE MARINE INSURANCE ACT, 1963

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title and commencement
2. Definitions

MARINE INSURANCE

3. Marine insurance defined
4. Mixed sea and land risks
5. Lawful marine adventure

INSURABLE INTEREST

6. Avoidance of wagering contracts
7. Insurable interest defined
8. When interest must attach
9. Defeasible or contingent interest
10. Partial interest
11. Reinsurance
12. Bottomry
13. Master's and Seamen's wages
14. Advance freight
15. Charges of insurance
16. Quantum of interest
17. Assignment of interest

INSURABLE VALUE

18. Measure of insurable value

SECTIONS

DISCLOSURE AND REPRESENTATIONS

19. Insurance is *uberrimae fidei*
20. Disclosure by assured
21. Disclosure by agent effecting insurance
22. Representations pending negotiations of contract
23. When contract is deemed to be concluded

THE POLICY

24. Contract must be embodied in policy
25. What policy must specify
26. Signature of insurer
27. Voyage and time policies
28. Designation and subject-matter
29. Valued policy
30. Unvalued policy
31. Floating policy by ship or ships
32. Construction of terms in policy
33. Premium to be arranged

DOUBLE INSURANCE

34. Double insurance

WARRANTIES, ETC.

35. Nature of warranty
36. When breach of warranty excused
37. Express warranties
38. Warranty of neutrality
39. No implied warranty of nationality
40. Warranty of good safety
41. Warranty of seaworthiness of ship
42. No implied warranty that goods are seaworthy
43. Warranty of legality

Not Corrected: See Part One

OF 1963]

Marine Insurance

57

SECTIONS

THE VOYAGE

44. Implied condition as to commencement of risk
45. Alteration of port of departure
46. Sailing for different destination
47. Change of voyage
48. Deviation
49. Several ports of discharge
50. Delay in voyage
51. Excuse for deviation or delay

ASSIGNMENT OF POLICY

52. When and how policy is assignable
53. Assured who has no interest cannot assign

THE PREMIUM

54. When premium payable

LOSS AND ABANDONMENT

55. Included and excluded losses
56. Partial and total loss
57. Actual total loss
58. Missing ship
59. Effect of transhipment, etc.
60. Constructive total loss defined
61. Effect of constructive total loss
62. Notice of abandonment
63. Effect of abandonment

PARTIAL LOSSES (INCLUDING SALVAGE AND GENERAL AVERAGE AND PARTICULAR CHARGES).

64. Particular average loss
65. Salvage charges
66. General average loss

SECTIONS

MEASURE OF INDEMNITY

67. Extent of liability of insurer for loss
68. Total loss
69. Partial loss of ship
70. Partial loss of freight
71. Partial loss of goods, merchandise, etc.
72. Apportionment of valuation
73. General average contributions and salvage charges
74. Liabilities to third parties
75. General provisions as to measure of indemnity
76. Particular average warranties
77. Successive losses
78. Suing and labouring clause

RIGHTS OF INSURER ON PAYMENTS

79. Right of subrogation
80. Right of contribution
81. Effect of under insurance

RETURN OF PREMIUM

82. Enforcement of return
83. Return by agreement
84. Return for failure of consideration

SUPPLEMENTAL

85. Ratification by assured
86. Implied obligation varied by agreement or usage
87. Reasonable time, etc., a question of fact
88. Covering note as evidence
89. Power to apply Act with modifications, etc., in certain cases
90. Certain provisions to override Transfer of Property Act 1882
91. Savings
92. Repeals

SCHEDULE.—FORM OF POLICY

Not Corrected: See Extra Cases Vol. II A, Pt. II, p. 305

THE MARINE INSURANCE ACT, 1963

NO. II OF 1963

[18th April, 1963]

An Act to codify the law relating to marine insurance.

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

1. (1) This Act may be called the Marine Insurance Act, 1963.

Short title
and com-
mencement.

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

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

Definitions.

(a) "contract of marine insurance" means a contract of marine insurance as defined by section 3;

(b) "freight" includes the profit derivable by a ship-owner from the employment of his ship to carry his own goods or other movables, as well as freight payable by a third party, but does not include passage money;

(c) "insurable property" means any ship, goods or other movables which are exposed to maritime perils;

(d) "marine adventure" includes any adventure where—

(i) any insurable property is exposed to maritime perils;

(ii) the earnings or acquisition of any freight, passage money, commission, profit or other pecuniary benefit, or the security for any advances, loans, or disbursements is endangered by the exposure of insurable property to maritime perils;

¹ 1-8-1963: vide Notification No. S.O. 1925, dated 8-7-1963, see Gazette of India, Pt. II, Sec. 3(ii), p. 2183.

- (iii) any liability to a third party may be incurred by the owner of, or other person interested in or responsible for, insurable property by reason of maritime perils;
- (e) "maritime perils" means the perils consequent on, or incidental to, the navigation of the sea, that is to say, perils of the seas, fire, war perils, pirates, rovers, thieves, captures, seizures, restraints and detainments of princes and peoples, jettisons, barratry and any other perils which are either of the like kind or may be designated by the policy;
- (f) "movables" means any movable tangible property, other than the ship, and includes money, valuable securities and other documents;
- (g) "policy" means a marine policy;
- (h) "ship" includes every description of vessel used in navigation;
- (i) "suit" includes counter-claim and set-off.

MARINE INSURANCE

Marine insurance defined.

3. A contract of marine insurance is an agreement whereby the insurer undertakes to indemnify the assured, in the manner and to the extent thereby agreed, against marine losses, that is to say, the losses incidental to marine adventure.

Mixed sea and land risks.

4. (1) A contract of marine insurance may, by its express terms, or by usage of trade, be extended so as to protect the assured against losses on inland waters or on any land risk which may be incidental to any sea voyage.

(2) Where a ship in course of building, or the launch of a ship, or any adventure analogous to a marine adventure, is covered by a policy in the form of a marine policy, the provisions of this Act, in so far as applicable, shall apply thereto, but, except as by this section provided, nothing in this Act shall alter or affect any rule of law applicable to any contract of insurance other than a contract of marine insurance as by this Act defined.

Explanation.—'An adventure analogous to a marine adventure' includes an adventure where any ship, goods or other movables are exposed to perils incidental to local or inland transit.

Lawful marine adventure.

5. Subject to the provisions of this Act, every lawful marine adventure may be the subject of a contract of marine insurance.

INSURABLE INTEREST

6. (1) Every contract of marine insurance by way of wagering is void.

Avoidance
of wagering
contracts.

(2) A contract of marine insurance is deemed to be a wagering contract—

(a) where the assured has not an insurable interest as defined by this Act, and the contract is entered into with no expectation of acquiring such an interest; or

(b) where the policy is made "interest or no interest", or "without further proof of interest than the policy itself", or "without benefit of salvage to the insurer", or subject to any other like term:

Provided that, where there is no possibility of salvage, a policy may be effected without benefit of salvage to the insurer.

7. (1) Subject to the provisions of this Act, every person has an insurable interest who is interested in a marine adventure.

Insurable
interest
defined.

(2) In particular a person is interested in a marine adventure where he stands in any legal or equitable relation to the adventure or to any insurable property at risk therein, in consequence of which he may benefit by the safety or due arrival of insurable property, or may be prejudiced by its loss, or by damage thereto, or by the detention thereof, or may incur liability in respect thereof.

8. (1) The assured must be interested in the subject-matter insured at the time of the loss, though he need not be interested when the insurance is effected.

When
interest
must attach.

Provided that, where the subject-matter is insured "lost or not lost", the assured may recover although he may not have acquired his interest until after the loss, unless at the time of effecting the contract of insurance the assured was aware of the loss, and the insurer was not.

(2) Where the assured has no interest at the time of the loss, he cannot acquire interest by any act or election after he is aware of the loss.

9. (1) A defeasible interest is insurable, as also is a contingent interest.

Defeasible
or contin-
gent in-
terest.

(2) In particular, where the buyer of goods has insured them, he has an insurable interest, notwithstanding that he might, at his election, have rejected the goods, or have treated them as at the seller's risk, by reason of the latter's delay in making delivery or otherwise.

Partial interest.

10. A partial interest of any nature is insurable.

Reinsurance.

11. (1) The insurer under a contract of marine insurance has an insurable interest in his risk, and may reinsurance in respect of it.

(2) Unless the policy otherwise provides, the original assured has no right or interest in respect of such reinsurance.

Bottomry.

12. The lender of money on bottomry or respondentia has an insurable interest in respect of the loan.

Master's and seamen's wages.

13. The master or any member of the crew of a ship has an insurable interest in respect of his wages.

Advance freight.

14. In the case of advance freight, the person advancing the freight has an insurable interest, in so far as such freight is not repayable in case of loss.

Charges of insurance.

15. The assured has an insurable interest in the charges of any insurance which he may effect.

Quantum of interest.

16. (1) Where the subject-matter insured is mortgaged, the mortgagor has an insurable interest in the full value thereof, and the mortgagee has an insurable interest in respect of any sum due or to become due under the mortgage.

(2) A mortgagee, consignee, or other person having an interest in the subject-matter insured may insure on behalf and for the benefit of other persons interested as well as for his own benefit.

(3) The owner of insurable property has an insurable interest in respect of the full value thereof, notwithstanding that some third person may have agreed, or be liable to indemnify him in case of loss.

Assignment of interest.

17. Where the assured assigns or otherwise parts with his interest in the subject-matter insured, he does not thereby transfer to the assignee his rights under the contract of insurance, unless there be an express or implied agreement with the assignee to that effect.

But the provisions of this section do not affect transmission of interest by operation of law.

INSURABLE VALUE

Measure of insurable value.

18. Subject to any express provision or valuation in the policy, the insurable value of the subject-matter insured must be ascertained as follows:—

(1) In insurance on ship, the insurable value is the value, at the commencement of the risk, of the ship, including her outfit, provisions, and stores for the officers and crew, money advanced

for seamen's wages, and other disbursements (if any) incurred to make the ship fit for the voyage or adventure contemplated by the policy, plus the charges of insurance upon the whole:

The insurable value, in the case of a steamship, includes also the machinery, boilers, and coals and engine stores if owned by the assured; in the case of a ship driven by power other than steam includes also the machinery and fuels and engine stores, if owned by the assured; and in the case of a ship engaged in a special trade, includes also the ordinary fittings requisite for that trade:

(2) In insurance on freight, whether paid in advance or otherwise, the insurable value is the gross amount of the freight at the risk of the assured, plus the charges of insurance:

(3) In insurance on goods or merchandise, the insurable value is the prime cost of the property insured, plus the expenses of and incidental to shipping and the charges of insurance upon the whole:

(4) In insurance on any other subject-matter, the insurable value is the amount at the risk of the assured when the policy attaches, plus the charges of insurance.

DISCLOSURE AND REPRESENTATIONS

19. A contract of marine insurance is a contract based upon the <sup>Insurance is
uterrimae
fidei.</sup> utmost good faith, and if the utmost good faith be not observed by either party, the contract may be avoided by the other party.

20. (1) Subject to the provisions of this section, the assured must disclose to the insurer, before the contract is concluded, every material circumstance which, is known to the assured, and the assured is deemed to know every circumstance which, in the ordinary course of business, ought to be known to him. If the assured fails to make such disclosure, the insurer may avoid the contract. <sup>Disclosure
by assured.</sup>

(2) Every circumstance is material which would influence the judgment of a prudent insurer in fixing the premium, or determining whether he will take the risk.

(3) In the absence of inquiry the following circumstances need not be disclosed, namely:—

(a) any circumstance which diminishes the risk;

(b) any circumstance which is known or presumed to be known to the insurer. The insurer is presumed to know matters

of common notoriety or knowledge, and matters which an insurer in the ordinary course of his business as such, ought to know;

(c) any circumstance as to which information is waived by the insurer;

(d) any circumstance which it is superfluous to disclose by reason of any express or implied warranty.

(4) Whether any particular circumstance, which is not disclosed, be material or not is, in each case, a question of fact.

(5) The term "circumstance" includes any communication made to, or information received by, the assured.

Disclosure
by agent
effecting
insurance.

21. Subject to the provisions of the preceding section as to circumstances which need not be disclosed, where an insurance is effected for the assured by an agent, the agent must disclose to the insurer—

(a) every material circumstance which is known to himself, and an agent to insure is deemed to know every circumstance which in the ordinary course of business ought to be known by, or to have been communicated to, him; and

(b) every material circumstance which the assured is bound to disclose, unless it comes to his knowledge too late to communicate it to the agent.

Representations
pending
negotiation
of contract.

22. (1) Every material representation made by the assured or his agent to the insurer during the negotiations for the contract, and before the contract is concluded, must be true. If it be untrue the insurer may avoid the contract.

(2) A representation is material which would influence the judgment of a prudent insurer in fixing the premium, or determining whether he will take the risk.

(3) A representation may be either as to a matter of fact, or as to a matter of expectation or belief.

(4) A representation as to a matter of fact is true, if it be substantially correct, that is to say, if the difference between what is represented and what is actually correct would not be considered material by a prudent insurer.

(5) A representation as to a matter of expectation or belief is true if it be made in good faith.

(6) A representation may be withdrawn or corrected before the contract is concluded.

Not Corrected: See ~~Section~~ ~~Code~~

OF 1963]

Marine Insurance

65

(7) Whether a particular representation be material or not, is, in each case, a question of fact.

23. A contract of marine insurance is deemed to be concluded when the proposal of the assured is accepted by the insurer, whether the policy be then issued or not; and for the purpose of showing when the proposal was accepted, reference may be made to the slip, covering note or other customary memorandum of the contract, although it be unstamped.

When
contract is
deemed to
be con-
cluded.

THE POLICY

24. A contract of marine insurance shall not be admitted in evidence unless it is embodied in a marine policy in accordance with this Act. The policy may be executed and issued either at the time when the contract is concluded, or afterwards.

Contract
must be
embodied
in policy.

25. A marine policy must specify—

What policy
must
specify.

- (1) the name of the assured, or of some person who effects the insurance on his behalf;
- (2) the subject-matter insured and the risk insured against;
- (3) the voyage, or period of time, or both, as the case may be, covered by the insurance;
- (4) the sum or sums insured;
- (5) the name or names of the insurer or insurers.

26. (1) A marine policy must be signed by or on behalf of the insurer.

signature
of insurer.

(2) Where a policy is subscribed by or on behalf of two or more insurers, each subscription, unless the contrary be expressed, constitutes a distinct contract with the assured.

27. (1) Where the contract is to insure the subject-matter at and from, or from one place to another or others, the policy is called a "voyage policy", and where the contract is to insure the subject-matter for a definite period of time, the policy is called a "time policy". A contract for both voyage and time may be included in the same policy.

Voyage and
time poli-
cies.

(2) A time policy which is made for any time exceeding twelve months is invalid.

28. (1) The subject-matter insured must be designated in a marine policy with reasonable certainty.

Designation
and subject
matter.

(2) The nature and extent of the interest of the assured in the subject-matter insured need not be specified in the policy.

(3) Where the policy designates the subject-matter insured in general terms, it shall be construed to apply to the interest intended by the assured to be covered.

(4) In the application of this section regard shall be had to any usage regulating the designation of the subject-matter insured.

Valued policy.

29. (1) A policy may be either valued or unvalued.

(2) A valued policy is a policy which specifies the agreed value of the subject-matter insured.

(3) Subject to the provisions of this Act, and in the absence of fraud, the value fixed by the policy is, as between the insurer and assured, conclusive of the insurable value of the subject intended to be insured, whether the loss be total or partial.

(4) Unless the policy otherwise provides, the value fixed by the policy is not conclusive for the purpose of determining whether there has been a constructive total loss.

Unvalued policy.

30. An unvalued policy is a policy which does not specify the value of the subject-matter insured, but subject to the limit of the sum insured, leaves the insurable value to be subsequently ascertained, in the manner hereinbefore explained.

Floating policy by ship or ships.

31. (1) A floating policy is a policy which describes the insurance in general terms, and leaves the name or names of the ship or ships and other particulars to be defined by subsequent declaration.

(2) The subsequent declaration or declarations may be made by endorsement on the policy, or in other customary manner.

(3) Unless the policy otherwise provides, the declarations must be made in the order of dispatch or shipment. They must, in the case of goods, comprise all consignments within the terms of the policy, and the value of the goods or other property must be honestly stated, but an omission or erroneous declaration may be rectified even after loss or arrival, provided the omission or declaration was made in good faith.

(4) Unless the policy otherwise provides, where a declaration of value is not made until after notice of loss or arrival, the policy must be treated as an unvalued policy as regards the subject-matter of that declaration.

Not Corrected: See India Code

of 1963]

Marine Insurance

67

Construction of terms in policy.

32. (1) A policy may be in the form in the Schedule.

(2) Subject to the provisions of this Act, and unless the context of the policy otherwise requires, the terms and expressions mentioned in the Schedule shall be construed as having the scope and meaning assigned to them in the Schedule.

33. (1) Where an insurance is effected at a premium to be arranged, and no arrangement is made, a reasonable premium is payable. *Premium to be arranged.*

(2) Where an insurance is effected on the terms that an additional premium is to be arranged in a given event, and that event happens but no arrangement is made, then a reasonable additional premium is payable.

DOUBLE INSURANCE

34. (1) Where two or more policies are effected by or on behalf of the assured on the same adventure and interest or any part thereof, and the sums insured exceed the indemnity allowed by this Act, the assured is said to be over-insured by double insurance. *Double insurance.*

(2) Where the assured is over-insured by double insurance—

(a) the assured, unless the policy otherwise provides, may claim payment from the insurers in such order as he may think fit, provided that he is not entitled to receive any sum in excess of the indemnity allowed by this Act;

(b) where the policy under which the assured claims is a valued policy, the assured must give credit as against the valuation, for any sum received by him under any other policy, without regard to the actual value of the subject-matter insured;

(c) where the policy under which the assured claims is an unvalued policy he must give credit, as against the full insurable value, for any sum received by him under any other policy;

(d) where the assured receives any sum in excess of the indemnity allowed by this Act, he is deemed to hold such sum in trust for the insurers, according to their right of contribution among themselves.

WARRANTIES, ETC.

35. (1) A warranty, in the following sections relating to warranties, means a promissory warranty, that is to say a warranty by which

Nature of warranty.

the assured undertakes that some particular thing shall or shall not be done, or that some condition shall be fulfilled, or whereby he affirms or negatives the existence of a particular state of facts.

(2) A warranty may be express or implied.

(3) A warranty, as above defined, is a condition which must be exactly complied with, whether it be material to the risk or not. If it be not so complied with, then, subject to any express provision in the policy, the insurer is discharged from liability as from the date of the breach of warranty, but without prejudice to any liability incurred by him before that date.

*When
breach of
warranty
excused.*

36. (1) Non-compliance with a warranty is excused when, by reason of a change of circumstances, the warranty ceases to be applicable to the circumstances of the contract, or when compliance with the warranty is rendered unlawful by any subsequent law.

(2) Where a warranty is broken, the assured cannot avail himself of the defence that the breach has been remedied, and the warranty complied with, before loss.

(3) A breach of warranty may be waived by the insurer.

*Express
warranties.*

37. (1) An express warranty may be in any form of words from which the intention to warrant is to be inferred.

(2) An express warranty must be included in, or written upon the policy, or must be contained in some document incorporated by reference into the policy.

(3) An express warranty does not exclude implied warranty, unless it be inconsistent therewith.

*Warranty of
neutrality.*

38. (1) Where insurable property, whether ship or goods, is expressly warranted neutral, there is an implied condition that the property shall have a neutral character at the commencement of the risk, and that, so far as the assured can control the matter, its neutral character shall be preserved during the risk.

(2) Where a ship is expressly warranted "neutral", there is also an implied condition that, so far as the assured can control the matter, she shall be properly documented, that is to say, that she shall carry the necessary papers to establish her neutrality, and that she shall not falsify or suppress her papers, or use simulated papers. If any loss occurs through breach of this condition, the insurer may avoid the contract.

*No implied
warranty of
nationality.*

39. There is no implied warranty as to the nationality of a ship or that her nationality shall not be changed during the risk.

Not Corrected: See India Code

of 1963]

Marine Insurance

69

40. Where the subject-matter insured is warranted "well" or "in good safety", on a particular day, it is sufficient if it be safe at any time during that day. Warranty of good safety.

41. (1) In a voyage policy there is an implied warranty that at the commencement of the voyage the ship shall be seaworthy for the purpose of the particular adventure insured. Warranty of seaworthiness of ship.

(2) Where the policy attaches while the ship is in port, there is also an implied warranty that she shall, at the commencement of the risk, be reasonably fit to encounter the ordinary perils of the port.

(3) Where the policy relates to a voyage which is performed in different stages, during which the ship requires different kinds of or further preparation or equipment, there is an implied warranty that at the commencement of each stage the ship is seaworthy in respect of such preparation or equipment for the purposes of that stage.

(4) A ship is deemed to be seaworthy when she is reasonably fit in all respects to encounter the ordinary perils of the seas of the adventure insured.

(5) In a time policy there is no implied warranty that the ship shall be seaworthy at any stage of the adventure, but where, with the privity of the assured, the ship is sent to sea in an unseaworthy state, the insurer is not liable for any loss attributable to unseaworthiness.

42. (1) In a policy on goods or other movables there is no implied warranty that the goods or movables are seaworthy. No implied warranty that goods are seaworthy.

(2) In a voyage policy on goods or other movables there is an implied warranty that at the commencement of the voyage the ship is not only seaworthy as a ship, but also that she is reasonably fit to carry the goods or other movables to the destination contemplated by the policy.

43. There is an implied warranty that the adventure insured is a lawful one, and that, so far as the assured can control the matter, the adventure shall be carried out in a lawful manner. Warranty of legality.

THE VOYAGE

44. (1) Where the subject-matter is insured by a voyage policy "at and from" or "from" a particular place, it is not necessary that the ship should be at that place when the contract is concluded, but there is an implied condition that the adventure shall be commenced within a reasonable time, and that if the adventure be not so commenced the insurer may avoid the contract. Implied condition as to commencement of risk.

(2) The implied condition may be negated by showing that the delay was caused by circumstances known to the insurer before the contract was concluded, or by showing that he waived the condition.

Alteration
of port of
departure.

45. Where the place of departure is specified by the policy, and the ship instead of sailing from that place sails from any other place, the risk does not attach.

Sailing for
different
destination.

46. Where the destination is specified in the policy, and the ship, instead of sailing for that destination, sails for any other destination, the risk does not attach.

Change of
voyage.

47. (1) Where, after the commencement of the risk, the destination of the ship is voluntarily changed from the destination contemplated by the policy, there is said to be a change of voyage.

(2) Unless the policy otherwise provides, where there is a change of voyage, the insurer is discharged from liability as from the time of change, that is to say, as from the time when the determination to change it is manifested; and it is immaterial that the ship may not in fact have left the course of voyage contemplated by the policy when the loss occurs.

Deviation.

48. (1) Where a ship, without lawful excuse, deviates from the voyage contemplated by the policy, the insured is discharged from liability as from the time of deviation, and it is immaterial that the ship may have regained her route before any loss occurs.

(2) There is a deviation from the voyage contemplated by the policy—

(a) where the course of the voyage is specifically designated by the policy, and that course is departed from; or

(b) where the course of the voyage is not specifically designated by the policy, but the usual and customary course is departed from.

(3) The intention to deviate is immaterial; there must be a deviation in fact to discharge the insurer from his liability under the contract.

Several
ports of
discharge.

49. (1) Where several ports of discharge are specified by the policy, the ship may proceed to all or any of them, but, in the absence of any usage or sufficient cause to the contrary, she must proceed to them, or such of them as she goes to, in the order designated by the policy. If she does not there is a deviation.

(2) Where the policy is to "ports of discharge", within a given area, which are not named, the ship must, in the absence of any

usage or sufficient cause to the contrary, proceed to them, or such of them as she goes to, in their geographical order. If she does not there is a deviation.

50. In the case of a voyage policy, the adventure insured must be prosecuted throughout its course with reasonable despatch, and; if without lawful excuse it is not so prosecuted, the insurer is discharged from liability as from the time when the delay became unreasonable.

Delay in
voyage.

51. (1) Deviation or delay in prosecuting the voyage contemplated by the policy is excused—

Excuse for
deviation
or delay.

(a) where authorised by any special term in the policy; or

(b) where caused by circumstances beyond the control of the master and his employer; or

(c) where reasonably necessary in order to comply with an express or implied warranty; or

(d) where reasonably necessary for the safety of the ship or subject-matter insured; or

(e) for the purpose of saving human life or aiding a ship in distress where human life may be in danger; or

(f) where reasonably necessary for the purpose of obtaining medical or surgical aid for any person on board the ship; or

(g) where caused by the barratrous conduct of the master or crew, if barratry be one of the perils insured against.

(2) When the cause excusing the deviation or delay ceases to operate, the ship must resume her course, and prosecute her voyage, with reasonable despatch.

ASSIGNMENT OF POLICY

52. (1) A marine policy may be transferred by assignment unless it contains terms expressly prohibiting assignment. It may be assigned either before or after loss.

When and
how policy
is assign-
able.

(2) Where a marine policy has been assigned so as to pass the beneficial interest in such policy, the assignee of the policy is entitled to sue thereon in his own name; and the defendant is entitled to make any defence arising out of the contract which he would have been entitled to make if the suit had been brought in the name of the person by or on behalf of whom the policy was effected.

(3) A marine policy may be assigned by endorsement thereon or in other customary manner,

Assured
who has no
interest can-
not assign.

53. Where the assured has parted with or lost his interest in the subject-matter insured, and has not, before or at the time of so doing expressly or impliedly agreed to assign the policy, any subsequent assignment of the policy is inoperative:

Provided that nothing in this section affects the assignment of a policy after loss.

THE PREMIUM

When pre-
mium
payable.

54. Unless otherwise agreed, the duty of the assured or his agent to pay the premium, and the duty of the insurer to issue the policy to the assured or his agent, are concurrent conditions, and the insurer is not bound to issue the policy until payment or tender of the premium.

LOSS AND ABANDONMENT

Included
and
excluded
losses.

55. (1) Subject to the provisions of this Act, and unless the policy otherwise provides, the insurer is liable for any loss proximately caused by a peril insured against, but, subject as aforesaid, he is not liable for any loss which is not proximately caused by a peril insured against.

(2) In particular—

(a) the insurer is not liable for any loss attributable to the wilful misconduct of the assured, but, unless the policy otherwise provides, he is liable for any loss proximately caused by a peril insured against, even though the loss would not have happened but for the misconduct or negligence of the master or crew;

(b) unless the policy otherwise provides, the insurer on ship or goods is not liable for any loss proximately caused by delay, although the delay be caused by a peril insured against;

(c) unless the policy otherwise provides, the insurer is not liable for ordinary wear and tear, ordinary leakage and breakage, inherent vice or nature of the subject-matter insured, or for any loss proximately caused by rats or vermin, or for any injury to machinery not proximately caused by maritime perils.

Partial and
total loss.

56. (1) A loss may be either total or partial. Any loss other than a total loss, as hereinafter defined, is a partial loss.

(2) A total loss may be either an actual total loss, or a constructive total loss.

(3) Unless a different intention appears from the terms of the policy, an insurance against total loss includes a constructive, as well as an actual, total loss.

(4) Where the assured brings a suit for a total loss and the evidence proves only a partial loss, he may, unless the policy otherwise provides, recover for a partial loss.

(5) Where goods reach their destination in specie, but by reason of obliteration of marks, or otherwise, they are incapable of identification, the loss, if any, is partial and not total.

57. (1) Where the subject-matter insured is destroyed, or so damaged as to cease to be a thing of the kind insured, or where the assured is irretrievably deprived thereof, there is an actual total loss.

(2) In the case of an actual total loss no notice of abandonment need be given.

58. Where the ship concerned in the adventure is missing, and after the lapse of a reasonable time no news of her has been received, an actual total loss may be presumed.

59. Where, by a peril insured against, the voyage is interrupted at intermediate port or place, under such circumstances as, apart from any special stipulation in the contract of affreightment, to justify the master in landing and reshipping the goods or other movables, or in transhipping them, and sending them on to their destination, the liability of the insurer continues, notwithstanding the landing or transhipment.

60. (1) Subject to any express provision in the policy, there is a constructive total loss where the subject-matter insured is reasonably abandoned on account of its actual total loss appearing to be unavoidable, or because it could not be preserved from actual total loss without an expenditure which would exceed its value when the expenditure had been incurred.

(2) In particular, there is a constructive total loss—

(i) where the assured is deprived of the possession of his ship or goods by a peril insured against, and

(a) it is unlikely that he can recover the ship or goods, as the case may be, or

(b) the cost of recovering the ship or goods, as the case may be,

would exceed their value when recovered; or

Missing ship.

Effect of transhipment, etc.

Constructive total loss defined.

(ii) in the case of damage to a ship, where she is so damaged by a peril insured against that the cost of repairing the damage would exceed the value of the ship when repaired.

In estimating the cost of repairs, no deduction is to be made in respect of general average contributions to those repairs payable by other interests, but account is to be taken of the expense of future salvage operations and of any future general average contributions to which the ship would be liable if repaired; or

(iii) in the case of damage to goods, where the cost of repairing the damage and forwarding the goods to their destination would exceed their value on arrival.

Effect of constructive total loss.

61. Where there is a constructive total loss the assured may either treat the loss as a partial loss, or abandon the subject-matter insured to the insurer and treat the loss as if it were an actual total loss.

Notice of abandonment.

62. (1) Subject to the provisions of this section, where the assured elects to abandon the subject-matter insured to the insurer, he must give notice of abandonment. If he fails to do so the loss can only be treated as a partial loss.

(2) Notice of abandonment may be given in writing, or by word of mouth, or partly in writing and partly by word of mouth, and may be given in any terms which indicate the intention of the assured to abandon his insured interest in the subject-matter insured unconditionally to the insurer.

(3) Notice of abandonment must be given with reasonable diligence after the receipt of reliable information of the loss, but where the information is of a doubtful character the assured is entitled to a reasonable time to make enquiry.

(4) Where notice of abandonment is properly given, the rights of the assured are not prejudiced by the fact that the insurer refuses to accept the abandonment.

(5) The acceptance of an abandonment may be either express or implied from the conduct of the insurer. The mere silence of the insurer after notice is not an acceptance.

(6) Where notice of abandonment is accepted the abandonment is irrevocable. The acceptance of the notice conclusively admits liability for the loss and the sufficiency of the notice.

(7) Notice of abandonment is unnecessary where at the time when the assured receives information of the loss, there would be no possibility of benefit to the insurer if notice were given to him.

(8) Notice of abandonment may be waived by the insurer.

(9) Where an insurer has reinsured his risk, no notice of abandonment need be given by him.

63. (1) Where there is a valid abandonment the insurer is entitled to take over the interest of the assured in whatever may remain of the subject-matter insured, and all proprietary rights incidental thereto. Effect of abandonment.

(2) Upon the abandonment of a ship, the insurer thereof is entitled to any freight in course of being earned, and which is earned by her subsequent to the casualty causing the loss, less the expenses of earning it incurred after the casualty; and, where the ship is carrying the owner's goods, the insurer is entitled to a reasonable remuneration for the carriage of them subsequent to the casualty causing the loss.

PARTIAL LOSSES (INCLUDING SALVAGE AND GENERAL AVERAGE AND PARTICULAR CHARGES)

64. (1) A particular average loss is a partial loss of the subject-matter insured, caused by a peril insured against, and which is not a general average loss. Particular average loss.

(2) Expenses incurred by or on behalf of the assured for the safety or preservation of the subject-matter insured, other than general average and salvage charges, are called particular charges. Particular charges are not included in particular average.

65. (1) Subject to any express provision in the policy, salvage charges incurred in preventing a loss by perils insured against may be recovered as a loss by those perils. Salvage charges.

(2) "Salvage charges" means the charges recoverable under maritime law by a salvor independently of contract. They do not include the expenses of services in the nature of salvage rendered by the assured or his agents, or any person employed for hire by them, for the purpose of averting a peril insured against. Such expenses, where properly incurred, may be recovered as particular charges or as a general average loss, according to the circumstances under which they were incurred.

General
average
loss.

66. (1) A general average loss is a loss caused by or directly consequential on a general average act. It includes a general average expenditure as well as a general average sacrifice.

(2) There is a general average act where any extraordinary sacrifice or expenditure is voluntarily and reasonably made or incurred in time of peril for the purpose of preserving the property imperilled in the common adventure.

(3) Where there is a general average loss, the party on whom it falls is entitled, subject to the conditions imposed by maritime law, to a rateable contribution from the other parties interested, and such contribution is called a general average contribution.

(4) Subject to any express provision in the policy, where the assured has incurred a general average of expenditure, he may recover from the insurer in respect of the proportion of the loss which falls upon him; and in the case of a general average sacrifice, he may recover from the insurer in respect of the whole loss without having enforced his right of contribution from the other parties liable to contribute.

(5) Subject to any express provision in the policy, where the assured has paid, or is liable to pay, a general average contribution in respect of the interest insured, he may recover therefor from the insurer.

(6) In the absence of express stipulation, the insurer is not liable for any general average loss or contribution where the loss was not incurred for the purpose of avoiding, or in connection with the avoidance of a peril insured against.

(7) Where ship, freight, and cargo, or any two of those interests, are owned by the same assured, the liability of the insurer in respect of general average losses or contributions is to be determined as if those interests were owned by different persons.

MEASURE OF INDEMNITY

Extent of
liability of
insurer for
loss.

67. (1) The sum which the assured can recover in respect of a loss on a policy by which he is insured, in the case of an unvalued policy to the full extent of the insurable value, or, in the case of a valued policy to the full extent of the value fixed by the policy, is called the measure of indemnity.

(2) Where there is a loss recoverable under the policy, the insurer, or each insurer if there be more than one, is liable for such proportion of the measure of indemnity as the amount of his subscription bears to the value fixed by the policy in the case of a valued policy, or to the insurable value in the case of an unvalued policy.

Not Corrected: See India Ocean

of 1963]

Marine Insurance

77

68. Subject to the provisions of this Act, and to any express provision in the policy, where there is a total loss of the subject-matter insured—

Total loss.

(1) if the policy be a valued policy, the measure of indemnity is the sum fixed by the policy;

(2) if the policy be an unvalued policy, the measure of indemnity is the insurable value of the subject-matter insured.

69. Where a ship is damaged, but is not totally lost, the measure of indemnity subject to any express provision in the policy, is as follows—

Partial loss of ship.

(1) where the ship has been repaired, the assured is entitled to the reasonable cost of the repairs, less the customary deductions, but not exceeding the sum insured in respect of any one casualty;

(2) where the ship has been only partially repaired, the assured is entitled to the reasonable cost of such repairs, computed as above, and also to be indemnified for the reasonable depreciation, if any, arising from the unrepaired damage, provided that the aggregate amount shall not exceed the cost of repairing the whole damage, computed as above;

(3) where the ship has not been repaired, and has not been sold in her damaged state during the risk, the assured is entitled to be indemnified for the reasonable depreciation arising from the unrepaired damage, but not exceeding the reasonable cost of repairing such damage, computed as above;

(4) where the ship has not been repaired, and has been sold in her damaged state during the risk, the assured is entitled to be indemnified for the reasonable cost of repairing the damage, computed as above, but not exceeding the depreciation in value as ascertained by the sale.

70. Subject to any express provision in the policy, where there is a partial loss of freight, the measure of indemnity is such proportion of the sum fixed by the policy in the case of a valued policy or of the insurable value in the case of an unvalued policy, as the proportion of freight lost by the assured bears to the whole freight at the risk of the assured under the policy.

Partial loss of freight.

71. Where there is a partial loss of goods, merchandise, or other movables, the measure of indemnity, subject to any express provision in the policy, is as follows:—

Partial loss of goods, merchandise, etc.

(1) where part of the goods, merchandise or other movables insured by a valued policy is totally lost, the measure of

indemnity is such proportion of the sum fixed by the policy as the insurable value of the part lost bears to the insurable value of the whole, ascertained as in the case of an unvalued policy;

(2) where part of the goods, merchandise or other movables insured by an unvalued policy is totally lost, the measure of indemnity is the insurable value of the part lost, ascertained as in case of total loss;

(3) where the whole or any part of the goods or merchandise insured has been delivered damaged at its destination, the measure of indemnity is such proportion of the sum fixed by the policy in the case of a valued policy, or of the insurable value in the case of an unvalued policy, as the difference between the gross sound and damaged values at the place of arrival bears to the gross sound value;

(4) "Gross value" means the wholesale price, or, if there be no such price, the estimated value, with, in either case, freight, landing charges, and duty paid beforehand; provided that, in the case of goods or merchandise customarily sold in bond, the bonded price is deemed to be the gross value. "Gross proceeds" means the actual price obtained at a sale where all charges on sale are paid by the sellers.

Apportionment of valuation.

72. (1) Where different species of property are insured under a single valuation, the valuation must be apportioned over the different species in proportion to their respective insurable values, as in the case of an unvalued policy. The insured value of any part of a species is such proportion of the total insured value of the same as the insurable value of the part bears to the insurable value of the whole, ascertained in both cases as provided by this Act.

(2) Where a valuation has to be apportioned, and particulars of the prime cost of each separate species, quality, or description of goods cannot be ascertained, the division of the valuation may be made over the net arrived sound values of the different species, qualities, or descriptions of goods.

General average contributions and salvage charges.

73. (1) Subject to any express provision in the policy, where the assured has paid, or is liable for, any general average contribution, the measure of indemnity is the full amount of such contribution if the subject-matter liable to contribution is insured for its full contributory value; but, if such subject-matter be not insured for its full contributory value, or if only part of it be insured, the indemnity payable by the insurer must be reduced in proportion to the under-insurance, and where there has been a particular average loss which constitutes a deduction from the contributory value, and for which

the insurer is liable, that amount must be deducted from the insured value in order to ascertain what the insurer is liable to contribute.

(2) Where the insurer is liable for salvage charges the extent of his liabilities must be determined on the like principle.

74. Where the assured has effected an insurance in express terms against any liability to a third party, the measure of indemnity, subject to any express provision in the policy, is the amount paid or payable by him to such third party in respect of such liability. Liabilities to third parties.

75. (1) Where there has been a loss in respect of any subject-matter not expressly provided for in the foregoing provisions of this Act, the measure of indemnity shall be ascertained as nearly as may be, in accordance with those provisions, in so far as applicable to the particular case. General provisions as to measure of indemnity.

(2) Nothing in the provisions of this Act relating to the measure of indemnity shall affect the rules relating to double insurance, or prohibit the insurer from disproving interest wholly or in part, or from showing that at the time of the loss the whole or any part of the subject-matter insured was not at risk under the policy.

76. (1) Where the subject-matter insured is warranted free from particular average, the assured cannot recover for a loss of part, other than a loss incurred by a general average sacrifice, unless the contract contained in the policy be apportionable; but, if the contract be apportionable, the assured may recover for a total loss of any apportionable part. Particular average warranties.

(2) Where the subject-matter insured is warranted free from particular average, either wholly or under a certain percentage, the insurer is nevertheless liable for salvage charges, and for particular charges and other expenses properly incurred pursuant to the provisions of the suing and labouring clause in order to avert a loss insured against.

(3) Unless the policy otherwise provides, where the subject-matter insured is warranted free from particular average under a specified percentage, a general average loss cannot be added to a particular average loss to make up the specified percentage.

(4) For the purpose of ascertaining whether the specified percentage has been reached, regard shall be had only to the actual loss suffered by the subject-matter insured. Particular charges and the expenses of and incidental to ascertaining and proving the loss must be excluded.

77. (1) Unless the policy otherwise provides, and subject to the provisions of this Act, the insurer is liable for successive losses, even though the total amount of such losses may exceed the sum insured. Successive losses.

(2) Where, under the same policy, a partial loss, which has not been repaired or otherwise made good, is followed by a total loss, the assured can only recover in respect of the total loss:

Provided that nothing in this section shall affect the liability of the insurer under the suing and labouring clause.

**Suing and
labouring
clause.**

78. (1) Where the policy contains a suing and labouring clause, the engagement thereby entered into is deemed to be supplementary to the contract of insurance, and the assured may recover from the insurer any expenses properly incurred pursuant to the clause, notwithstanding that the insurer may have paid for a total loss, or that the subject-matter may have been warranted free from particular average, either wholly or under a certain percentage.

(2) General average losses and contributions and salvage charges, as defined by this Act, are not recoverable under the suing and labouring clause.

(3) Expenses incurred for the purpose of averting or diminishing any loss not covered by the policy are not recoverable under the suing and labouring clause.

(4) It is the duty of the assured and his agents, in all cases, to take such measures as may be reasonable for the purpose of averting or minimising a loss.

RIGHTS OF INSURER ON PAYMENTS

**Right of
subroga-
tion.**

79. (1) Where the insurer pays for a total loss, either of the whole, or in the case of goods of any apportionable part, of the subject-matter insured, he thereupon becomes entitled to take over the interest of the assured in whatever may remain of the subject-matter so paid for, and he is thereby subrogated to all the rights and remedies of the assured in and in respect of that subject-matter as from the time of the casualty causing the loss.

(2) Subject to the foregoing provisions, where the insurer pays for a partial loss, he acquires no title to the subject-matter insured, or such part of it as may remain, but he is thereupon subrogated to all rights and remedies of the assured in and in respect of the subject-matter insured as from the time of the casualty causing the loss, in so far as the assured has been indemnified, according to this Act, by such payment for the loss.

**Right of
Contribution.**

80. (1) Where the assured is over-insured by double insurance, each insurer is bound, as between himself and the other insurers, to contribute rateably to the loss in proportion to the amount for which he is liable under his contract,

of 1963]

Marine Insurance

81

(2) If any insurer pays more than his proportion of the loss, he is entitled to maintain a suit for contribution against the other insurers, and is entitled to the like remedies as a surety who has paid more than his proportion of the debt.

81. Where the assured is insured for an amount less than the insurable value, or, in the case of a valued policy, for an amount less than the policy valuation, he is deemed to be his own insurer in respect of the uninsured balance. Effect of under-insurance.

RETURN OF PREMIUM

82. Where the premium, or a proportionate part thereof, is, by this Act, declared to be returnable— Enforce-
ment of
return.

(a) if already paid, it may be recovered by the assured from the insurer, and,

(b) if unpaid, it may be retained by the assured or his agent.

83. Where the policy contains a stipulation for the return of the premium, or a proportionate part thereof, on the happening of a certain event, and that event happens, the premium, or, as the case may be, the proportionate part thereof, is thereupon returnable to the assured. Return by agreement.

84. (1) Where the consideration for the payment of the premium totally fails, and there has been no fraud or illegality on the part of the assured or his agents, the premium is thereupon returnable to the assured. Return for failure of considera-
tion.

(2) Where the consideration for the payment of the premium is apportionable and there is a total failure of any apportionable part of the consideration, a proportionate part of the premium is, under the like conditions, thereupon returnable to the assured.

(3) In particular—

(a) where the policy is void, or is avoided by the insurer as from the commencement of the risk, the premium is returnable, provided there has been no fraud or illegality on the part of the assured; but if the risk is not apportionable, and has once attached, the premium is not returnable;

(b) where the subject-matter insured, or part thereof, has never been imperilled the premium, or, as the case may be, a proportionate part thereof, is returnable:

Provided that where the subject-matter has been insured "lost or not lost", and has arrived in safety at the time when the

contract is concluded, the premium is not returnable unless, at such time, the insurer knew of the safe arrival;

(c) where the assured has no insurable interest throughout the currency of the risk the premium is returnable, provided that this rule does not apply to a policy effected by way of wagering;

(d) where the assured has a defeasible interest which is terminated during the currency of the risk, the premium is not returnable;

(e) where the assured has over-insured under an unvalued policy, a proportionate part of the premium is returnable;

(f) subject to the foregoing provisions, where the assured has over-insured by double insurance, a proportionate part of the several premiums is returnable:

Provided that, if the policies are effected at different times, and any earlier policy has at any time borne the entire risk, or if a claim has been paid on the policy in respect of the full sum insured thereby, no premium is returnable in respect of that policy, and when the double insurance is effected knowingly by the assured no premium is returnable.

SUPPLEMENTAL

Ratification
by assured: 85. Where a contract of marine insurance is in good faith effected by one person on behalf of another, the person on whose behalf it is effected may ratify the contract even after he is aware of a loss.

Implied
obligation
varied by
agreement
or usage. 86. (1) Where any right, duty, or liability would arise under a contract of marine insurance by implication of law, it may be negated or varied by express agreement, or by usage, if the usage be such as to bind both parties to the contract.

(2) The provisions of this section extend to any right, duty, or liability declared by this Act which may be lawfully modified by agreement.

Reasonable
time, etc.,
a question
of fact. 87. Where by this Act any reference is made to reasonable time, reasonable premium, or reasonable diligence, the question what is reasonable is a question of fact.

Covering
note as
evidence. 88. Where there is a duly stamped policy, reference may be made, as heretofore, to the slip or covering note, in any legal proceeding.

89. The Central Government may, by notification in the Official Gazette, direct that the provisions of this Act shall, in their application to contracts of marine insurance relating to any class of ships exclusively used in inland navigation, be subject to such conditions, exceptions and modifications as it may specify in the notification.

Power to apply Act with modifications, etc., in certain cases.

90. Nothing in clause (e) of section 6 of the Transfer of Property Act, 1882, shall affect the provisions of sections 17, 52, 53 and 79.

Certain provisions to override Transfer of Property Act, 1882

91. The rules of law, including the law merchant, which applied to contracts of marine insurance immediately before the commencement of this Act, save in so far as they are inconsistent with the express provisions of this Act, shall continue to apply to contracts of marine insurance.

Savings

92. Sub-sections (1), (2) and (3) of section 7 of the Indian Stamp Act, 1899 and sections 130A and 135A of the Transfer of Property Act, 1882 are hereby repealed.

SCHEDULE

FORM OF POLICY

(See section 24)

BE IT KNOWN THAT as well in own name as for and in the name and names of all and every other person or persons to whom the same doth, may, or shall appertain, in part or in all doth make assurance and cause and them, and every of them, to be insured lost or not lost, at and from upon any kind of goods and merchandises, and also upon the body, tackle, apparel, ordnance, munition, artillery, boat and other furniture, of and in the good ship or vessel called the whereof is master for this present voyage or whosoever else shall go for master in the said ship or by whatsoever other name or names the said ship, or the master thereof, is or shall be named or called; beginning the adventure upon the said goods and merchandises from the loading thereof aboard the said ship, upon the said ship, etc. and so shall continue and endure, during her abode there, upon the said ship, etc. And further, until the said ship, with all her ordnance, tackle, apparel, etc., and goods and merchandises whatsoever shall be arrived at upon the said ship, etc., until she hath moored at anchor twenty-four hours

in good safety; and upon the goods and merchandises, until the same be there discharged and safely landed. And it shall be lawful for the said ship, etc., in this voyage to proceed and sail to and touch and stay at any ports or places whatsoever without prejudice to this insurance. The said ship, etc., goods and merchandises, etc., for so much as concerned the assured by agreement between the assured and assurers in this policy, are and shall be valued at

Touching the adventures and perils which we the assurers are contented to bear and do take upon us in this voyage; they are of the seas, men of war, fire, enemies, pirates, rovers, thieves, jettisons, letters of mart and countermart, surprisals, takings at sea, arrests, restraints, and detainments of all kings, princes, and people, of what nation, condition, or quality soever, barratry of the master and mariners, and of all other perils, losses, and misfortunes that have or shall come to the hurt, detriment, or damage of the said goods and merchandises, and ship, etc., or any part thereof.

And in case of any loss or misfortune it shall be lawful to the assured, their factors, servants and assigns, to sue, labour, and travel for, in and about the defence, safeguards and recovery of the said goods and merchandises and ship, etc., or any part thereof, without prejudice to this insurance; to the charges whereof we, the assurers, will contribute each one according to the rate and quantity of his sum herein assured.

And it is especially declared and agreed that no acts of the insurer or insured in recovering, saving, or preserving the property insured shall be considered as a waiver, or acceptance of abandonment. And so we, the assurers, are contented, and do hereby promise and bind ourselves, each one for his own part, our heirs, executors, and goods to the assured, their executors, administrators, and assigns, for the true performance of the premises, confessing ourselves paid the consideration due unto us for this assurance by the assured, at and after the rate of

In witness whereof we, the assurers, have subscribed our names and sums assured in

MEMORANDUM N.B.—Corn, fish, salt, fruit, flour, and seed are warranted free from average, unless general or the ship be stranded,—sugar, tobacco, hemp, flax, hides and skins are warranted free from average, under five per cent, and all other goods, also the ship and freight, are warranted free from average, under three per cent, unless general, or the ship be stranded.

RULES FOR CONSTRUCTION OF POLICY

The following are the rules referred to by this Act for the construction of a policy in the above or other like form, where the context does not otherwise require:—

1. Where the subject-matter is insured "lost or not lost" and the loss has occurred before the contract is concluded, the risk attaches unless, at such time the assured was aware of the loss, and the insurer was not. Lost or not lost.
2. Where the subject-matter is insured "from" a particular place, From the risk does not attach until the ship starts on the voyage insured.
3. (a) Where a ship is insured "at and from" a particular place, At and she is at that place in good safety when the contract is concluded, from the risk attaches immediately.
- (b) If she be not at that place when the contract is concluded, the risk attaches as soon as she arrives there in good safety, and, unless the policy otherwise provides, it is immaterial that she is covered by another policy for a specified time after arrival.
- (c) Where chartered freight is insured "at and from" a particular place, and the ship is at that place in good safety when the contract is concluded, the risk attaches immediately. If she be not there when the contract is concluded, the risk attaches as soon as she arrives there in good safety.
- (d) Where freight, other than chartered freight, is payable without special conditions and is insured "at and from" a particular place, the risk attaches *pro rata* as the goods or merchandise are shipped; provided that if there be cargo in readiness which belongs to the ship-owner, or which some other person has contracted with him to ship, the risk attaches as soon as the ship is ready to receive such cargo.
4. Where goods or other movables are insured "from the loading thereof", the risk does not attach until such goods or movables are actually on board, and the insurer is not liable for them while in transit from the shore to the ship. From the loading thereof.
5. Where the risk on goods or other movables continues until they are "safely landed", they must be landed in the customary manner and within a reasonable time after arrival at the port of discharge, and if they are not so landed the risk ceases. Safely landed.

- Touch and stay.** 6. In the absence of any further license or usage, the liberty to touch and stay "at any port or place whatsoever" does not authorise the ship to depart from the course of her voyage from the port of departure to the port of destination.
- Perils of the Seas.** 7. The term "perils of the seas" refers only to fortuitous accidents or casualties of the seas. It does not include the ordinary action of the winds and waves.
- Pirates.** 8. The term "pirates" includes passengers who mutiny and rioters who attack the ship from the shore.
- Thieves.** 9. The term "thieves" does not cover clandestine theft or a theft committed by any one of the ship's company, whether crew or passengers.
- Restraint of Princes.** 10. The term "arrests, etc., of kings, princes, and people" refers to political or executive acts, and does not include a loss caused by riot or by ordinary judicial process.
- Barratry.** 11. The term "barratry" includes every wrongful act wilfully committed by the master or crew to the prejudice of the owner, or, as the case may be, the charterer.
- All other perils.** 12. The term "all other perils" includes only perils similar in kind to the perils specifically mentioned in the policy.
- Average unless General.** 13. The term "average unless general" means a partial loss of the subject-matter insured other than a general average loss, and does not include "particular charges".
- Stranded.** 14. Where the ship has stranded, the insurer is liable for the excepted losses although the loss is not attributable to the stranding, provided that when the stranding takes place the risk has attached and, if the policy be on goods, that the damaged goods are on board.
- Ship.** 15. The term "ship" includes the hull, material and outfit, stores and provisions for the officers and crew, and, in the case of vessels engaged in a special trade, the ordinary fittings requisite for the trade, and also, in the case of a steamship, the machinery, boilers, and coals and engine stores, if owned by the assured and also in the case of a ship driven by power other than steam, the machinery and fuels and engine stores, if owned by the assured.

~~Not Corrected: See India Code~~

or 1963]

Marine Insurance

87

16. The term "freight" includes the profit derivable by a ship-^{Freight.} owner from the employment of his ship to carry his own goods or movables as well as freight payable by a third party, but does not include passage money.

17. The term "goods" means goods in the nature of merchandise,^{Goods.} and does not include personal effects or provisions and stores for use on board.

In the absence of any usage to the contrary, deck cargo and living animals must be insured specifically, and not under the general denomination of goods.

[27th April, 1963]

THE APPROPRIATION (No. 2) ACT, 1963

No. 12 OF 1963

[27th April, 1963]

An Act to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of India for the services of the financial year 1963-64.

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

Short title.

1. This Act may be called the Appropriation (No. 2) Act, 1963.

Issue of Rs.
94,40,37,22,000
out of the
Consolidated
Fund of
India for
the year
1963-64.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate [inclusive of the sums specified in column 3 of the Schedule to the Appropriation (Vote 9 of 1963 on Account) Act, 1963] to the sum of nine thousand four hundred and forty crores, thirty-seven lakhs and twenty-two thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1963-64 in respect of the services specified in column 2 of the Schedule.

Appropriation.

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

THE SCHEDULE

(See sections 2 and 3)

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
1	Ministry of Commerce and Industry . . .	76,46,000	..	76,46,000
2	Industries . . .	21,67,89,000	..	21,67,89,000
3	Salt . . .	62,46,000	..	62,46,000
4	Commercial Intelligence and Statistics . . .	94,76,000	..	94,76,000
5	Other Revenue Expenditure of the Ministry of Commerce and Industry . . .	3,70,87,000	5,000	3,70,92,000
6	Ministry of Community Development and Co-operation . . .	29,32,000	..	29,32,000
7	Community Development Projects, National Extension Service and Co-operation . . .	3,95,48,000	..	3,95,48,000
8	Ministry of Defence . . .	54,13,000	..	54,13,000
9	Defence Services—Effective . . .	7,23,46,65,000	11,00,000	7,23,57,65,000
10	Defence Services—Non-Effective . . .	18,90,00,000	50,000	18,90,50,000
11	Ministry of Economic and Defence Co-ordination . . .	16,81,000	..	16,81,000
12	Supplies and Disposals . . .	3,21,61,000	..	3,21,61,000
13	Other Revenue Expenditure of the Ministry of Economic and Defence Co-ordination . . .	56,89,000	..	56,89,000
14	Ministry of Education . . .	44,08,000	..	44,08,000
15	Education . . .	16,85,00,000	..	16,85,00,000

1 No. of Vote	Services and purposes	2.			3. Total
		Voted by Parliament	Charged on the Consolidated Fund	Rs.	
16	Other Revenue Expenditure of the Ministry of Education	2,47,08,000	..	2,47,08,000	
17	Tribal Areas . . .	13,69,13,000	..	13,69,13,000	
18	Naga Hills-Tuensang Area . .	6,05,33,000	..	6,05,33,000	
19	External Affairs . . .	16,87,80,000	..	16,87,80,000	
20	State of Pondicherry . .	3,76,67,000	..	3,76,67,000	
21	Dadra and Nagar Haveli Area .	14,07,000	..	14,07,000	
22	Goa, Daman and Diu . .	7,07,41,000	..	7,07,41,000	
23	Other Revenue Expenditure of the Ministry of External Affairs	4,82,71,000	..	4,82,71,000	
24	Ministry of Finance . .	1,87,38,000	..	1,87,38,000	
25	Customs . . .	4,17,63,000	50,000	4,18,13,000	
26	Union Excise Duties . .	10,53,34,000	58,000	10,53,92,000	
27	Taxes on Income Including Corporation tax, etc. .	6,88,31,000	1,45,000	6,89,76,000	
28	Stamps . . .	3,04,54,000	..	3,04,54,000	
29	Audit . . .	13,11,09,000	22,19,000	13,33,28,000	
30	Currency and Coinage . .	9,31,16,000	..	9,31,16,000	
31	Mint . . .	2,52,52,000	..	2,52,52,000	
32	Kolar Gold Mines . .	5,58,14,000	..	5,58,14,000	
33	Pensions and Other Retirement Benefits . .	5,32,48,000	16,30,000	5,48,78,000	
34	Territorial and Political Pensions	22,92,000	..	22,92,000	
35	Opium . . .	3,02,33,000	..	3,02,33,000	
36	Other Revenue Expenditure of the Ministry of Finance .	88,23,67,000	..	88,23,67,000	

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
37	Planning Commission	95,23,000	..	95,23,000
38	Grants-in-aid to States	1,53,37,13,000	68,43,00,000	2,21,80,13,000
39	Miscellaneous Adjustments between the Central and State Governments	25,08,000	25,08,000	25,08,000
40	Pre-partition Payments	9,53,000	12,64,000	22,17,000
	CHARGED.—Interest on Debt and Other Obligations and Reduction or Avoidance of Debt	..	2,80,24,05,000	2,80,24,05,000
	CHARGED.—Payments of States' Share of Union Excise Duties	..	1,28,06,99,000	1,28,06,99,000
41	Ministry of Food and Agriculture	82,36,000	..	82,36,000
42	Agriculture	3,19,82,000	..	3,19,82,000
43	Agricultural Research	5,17,20,000	..	5,17,20,000
44	Animal Husbandry	96,77,000	..	96,77,000
45	Forest	1,06,52,000	..	1,06,52,000
46	Other Revenue Expenditure of the Ministry of Food and Agriculture	31,79,59,000	11,64,000	31,91,23,000
47	Ministry of Health	19,34,000	..	19,34,000
48	Medical and Public Health	10,25,14,000	..	10,25,14,000
49	Other Revenue Expenditure of the Ministry of Health	67,43,000	..	67,43,000
50	Ministry of Home Affairs	4,44,09,000	..	4,44,09,000
51	Cabinet	45,48,000	..	45,48,000
52	Zonal Councils	2,42,000	..	2,42,000
53	Administration of Justice	3,02,000	20,88,000	23,90,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
54	Police	16,16,09,000	..	16,16,09,000
55	Census	93,50,000	..	93,50,000
56	Statistics	1,90,71,000	..	1,90,71,000
57	Privy Purses and Allowances of Indian Rulers	5,36,000	5,08,03,000	5,13,39,000
58	Delhi	18,78,29,000	35,000	18,78,64,000
59	Himachal Pradesh	11,04,51,000	..	11,04,51,000
60	Andaman and Nicobar Islands	2,95,34,000	..	2,95,34,000
61	Manipur	4,52,14,000	..	4,52,14,000
62	Tripura	8,29,95,000	..	8,29,95,000
63	Laccadive, Minicoy and Amin-divi Islands	27,45,000	..	27,45,000
64	Other Revenue Expenditure of the Ministry of Home Affairs	3,14,82,000	..	3,14,82,000
65	Ministry of Information and Broadcasting	17,58,000	..	17,58,000
66	Broadcasting	5,61,88,000	..	5,61,88,000
67	Other Revenue Expenditure of the Ministry of Information and Broadcasting	3,96,62,000	..	3,96,62,000
68	Ministry of Irrigation and Power	27,21,000	..	27,21,000
69	Multi-purpose River Schemes	1,19,13,000	..	1,19,13,000
70	Other Revenue Expenditure of the Ministry of Irrigation and Power	5,47,32,000	..	5,47,32,000
71	Ministry of Labour and Employment	27,10,000	..	27,10,000

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
72	Chief Inspector of Mines . . .	27,99,000	..	27,99,000]
73	Labour and Employment . . .	8,23,16,000	..	8,23,16,000
74	Other Revenue Expenditure of the Ministry of Labour and Employment . . .	2,05,88,000	..	2,05,88,000
75	Ministry of Law . . .	40,64,000	..	40,64,000
76	Elections . . .	1,39,19,000	..	1,39,19,000
77	Other Revenue Expenditure of the Ministry of Law . . .	4,30,000	..	4,30,000
78	Ministry of Mines and Fuel . . .	24,85,000	..	24,85,000
79	Geological Survey . . .	4,15,42,000	..	4,15,42,000
80	Other Revenue Expenditure of the Ministry of Mines and Fuel . . .	12,24,49,000	..	12,24,49,000
81	Ministry of Scientific Research and Cultural Affairs . . .	37,38,000	..	37,38,000
82	Archaeology . . .	1,10,90,000	..	1,10,90,000
83	Survey of India . . .	3,61,28,000	..	3,61,28,000
84	Botanical Survey . . .	27,81,000	..	27,81,000
85	Zoological Survey . . .	19,85,000	..	19,85,000
86	Scientific Research and Cultural Affairs . . .	17,57,63,000	..	17,57,63,000
87	Other Revenue Expenditure of the Ministry of Scientific Research and Cultural Affairs . . .	56,65,000	..	56,65,000
88	Ministry of Steel and Heavy Industries . . .	31,21,000	..	31,21,000
89	Other Revenue Expenditure of the Ministry of Steel and Heavy Industries . . .	30,91,24,000]	..	30,91,24,000

No. of Vote	Services and purposes for which the amount is required	Sums not exceeding amount for which appropriation is made			Total
		Voted by Parliament	Charged on the Consoli- dated Fund	Rs.	
90	Ministry of Transport and Communications	1,02,25,000	1,02,25,000
91	Meteorology	2,11,35,000	2,11,35,000
92	Central Road Fund	4,35,00,000	4,35,00,000
93	Communications (including National Highways)	7,37,93,000	7,37,93,000
94	Mercantile Marine	99,57,000	99,57,000
95	Lighthouses and Lightships	1,10,41,000	1,10,41,000
96	Aviation	5,51,38,000	5,51,38,000
97	Overseas Communications Service	1,39,94,000	1,39,94,000
98	Other Revenue Expenditure of the Ministry of Transport and Communications	3,28,83,000	3,28,83,000
99	Indian Posts and Telegraphs Department (including Working Expenses)	95,66,55,000	60,000	..	95,67,15,000
100	Posts and Telegraphs Dividend to General Revenues and Appropriations to Reserve Funds	19,97,20,000	19,97,20,000
101	Ministry of Works, Housing and Rehabilitation	89,59,000	89,59,000
102	Public Works	34,50,50,000	32,20,000	..	34,82,70,000
103	Stationery and Printing	9,74,20,000	9,74,20,000
104	Expenditure on Displaced persons	8,39,84,000	8,000	..	8,40,69,000

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolida- ted Fund	Total
105	Other Revenue Expenditure of the Ministry of Works, Housing and Rehabilitation	77,54,000	..	77,54,000
106	Department of Atomic Energy	15,73,000	..	15,73,000
107	Atomic Energy Research	8,50,02,000	..	8,50,02,000
108	Department of Parliamentary Affairs	3,17,000	..	3,17,000
109	Lok Sabha	96,20,000	66,000	96,86,000
110	Other Revenue Expenditure of Lok Sabha	42,000	..	42,000
111	Rajya Sabha	43,02,000	67,000	43,69,000
	CHARGED.—Staff, Household and Allowances of the President	..	27,13,000	27,13,000
112	Secretariat of the Vice-President	1,23,000	..	1,23,000
	CHARGED.—Union Public Service Commission	..	49,15,000	49,15,000
113	Capital Outlay of the Ministry of Commerce and Industry	11,56,77,000	..	11,56,77,000
114	Capital Outlay of the Ministry of Community Development and Co-operation	31,99,000	..	31,99,000
115	Defence Capital Outlay	1,58,77,00,000	15,00,000	1,58,92,00,000
116	Capital Outlay of the Ministry of Economic and Defence Co-ordination	1,00,000	..	1,00,000
117	Capital Outlay of the Ministry of Education	1,59,000	..	1,59,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
118	Capital Outlay of the Ministry of External Affairs . . .	1,23,00,000	..	1,23,00,000
119	Capital Outlay on the India Security Press . . .	18,58,000	..	18,58,000
120	Capital Outlay on Currency and Coinage . . .	14,34,79,000	..	14,34,79,000
121	Capital Outlay on Mints . . .	18,52,000	..	18,52,000
122	Capital Outlay on Kolar Gold Mines . . .	3,59,32,000	..	3,59,32,000
123	Commuted Value of Pensions . . .	1,05,90,000	1,22,000	1,07,12,000
124	Other Capital Outlay of the Ministry of Finance . . .	64,36,59,000	..	64,36,59,000
125	Capital Outlay on Grants to States for Development . . .	24,57,83,000	..	24,57,83,000
126	Loans and Advances by the Central Government . . .	1,74,53,99,000	5,41,08,25,000	7,15,62,24,000
CHARGED.—Repayment of Debt		..	56,41,89,94,000	56,41,89,94,000
127	Capital Outlay on Forests . . .	9,93,000	..	9,93,000
128	Purchase of Foodgrains . . .	2,57,30,36,000	1,00,000	2,57,31,36,000
129	Other Capital Outlay of the Ministry of Food and Agriculture . . .	65,75,43,000	10,000	65,75,53,000
130	Capital Outlay of the Ministry of Health . . .	9,29,51,000	..	9,29,51,000
131	Capital Outlay of the Ministry of Home Affairs . . .	73,35,000	..	73,35,000
132	Capital Outlay of the Ministry of Information and Broadcasting . . .	2,97,55,000	..	2,97,55,000
133	Capital Outlay on Multi-purpose River Schemes . . .	10,28,65,000	..	10,28,65,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
134	Other Capital Outlay of the Ministry of Irrigation and Power	18,18,53,000	..	18,18,53,000
135	Capital Outlay of the Ministry of Labour and Employment	85,000	..	85,000
136	Capital Outlay of the Ministry of Mines and Fuel	52,43,80,000	..	52,43,80,000
137	Capital Outlay of the Ministry of Scientific Research and Cultural Affairs	3,07,45,000	..	3,07,45,000
138	Capital Outlay of the Ministry of Steel and Heavy Industries	1,42,94,86,000	..	1,42,94,86,000
139	Capital Outlay on Roads	62,31,21,000	..	62,31,21,000
140	Capital Outlay on Ports	7,02,40,000	..	7,02,40,000
141	Capital Outlay on Civil Aviation	3,65,70,000	25,000	3,65,95,000
142	Other Capital Outlay of the Ministry of Transport and Communications	7,26,19,000	..	7,26,19,000
143	Capital Outlay on Indian Posts and Telegraphs (not met from Revenue)	38,71,61,000	..	38,71,61,000
144	Capital Outlay on Public Works	7,94,00,000	6,00,000	8,00,00,000
145	Delhi Capital Outlay	7,88,00,000	12,00,000	8,00,00,000

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
146	Other Capital Outlay of the Ministry of Works, Housing and Rehabilitation . . .	9,08,29,000	10,000	9,08,39,000
147	Capital Outlay of the Department of Atomic Energy . . .	16,46,40,000	..	16,46,40,000
	GRAND TOTAL . . .	27,53,11,95,000	66,67,25,27,000	94,40,37,22,000

THE FINANCE ACT, 1963

No. 13 OF 1963

[28th April, 1963]

An Act to give effect to the financial proposals of the Central Government for the financial year 1963-64.

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

1. (1) This Act may be called the Finance Act, 1963.

Short title and commencement

(2) Save as otherwise provided in this Act, sections 3, 6, 7, 9, 11, 12, 13 and 21 shall be deemed to have come into force on the 1st day of April, 1963

2. (1) Subject to the provisions of sub-sections (2), (3), (4) and (5) for the assessment year commencing on the 1st day of April, 1963,—
Income-tax and super-tax.

(a) income-tax shall be charged at the rates specified in Part I of the First Schedule and,—

(i) in the cases to which Paragraphs A, B, C and E of that Part apply, shall be increased by a surcharge for purposes of the Union and, except in the cases to which the said Paragraph E applies, a special surcharge, calculated in either case in the manner provided therein; and

(ii) in the cases to which Paragraphs A and C of the aforesaid Part apply, shall further be increased by an additional surcharge for purposes of the Union (hereinafter referred to as additional surcharge) calculated in the manner provided in the said Schedule;

43 of 1961.

(b) super-tax shall, for the purposes of section 95 of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act), be charged at the rates specified in Part II of the First Schedule, and, in the cases to which Paragraphs A, B and C of that Part apply, shall be increased by a surcharge for purposes of the Union and a special surcharge, calculated in either case in the manner provided therein.

(2) In making any assessment for the assessment year commencing on the 1st day of April, 1963,—

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries", the income-tax payable by the assessee on that part of his total income which consists of such inclusion shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Finance (No. 2) Act, 1962, on his total income the same proportion as the amount of such inclusion bears to his total income;

(b) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (1) of section 192 of the Income-tax Act, the super-tax payable by the assessee on that portion of his total income which consists of such inclusion shall be an amount bearing to the total amount of super-tax payable according to the rates applicable under the operation of the Finance (No. 2) Act, 1962, on his total income the same proportion as the amount of such inclusion bears to his total income.

(3) In making any assessment for the assessment year commencing on the 1st day of April, 1963, where the total income of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956, includes any profits and gains from life insurance business, the super-tax payable by it shall be the aggregate of the tax calculated—

(i) on the amount of profits and gains from Life Insurance business so included, at the rate applicable to the Life Insurance Corporation of India in accordance with Paragraph E of Part II of the First Schedule; and

(ii) on the remaining part of its total income, at the rate applicable to the company on its total income.

(4) (a) In cases to which Chapter XII of the Income-tax Act applies, the tax chargeable shall be determined as provided in that Chapter, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter, as the case may be.

(b) In computing under section 209 of the Income-tax Act, the advance tax payable by an assessee, the additional surcharge shall be included.

(c) The amount of income-tax to be deducted at source under sub-section (1) of section 192 of the Income-tax Act from income chargeable under the head "Salaries" shall include an additional surcharge

equal in amount to the additional surcharge which would have been leviable if the estimated income under that head had been the total income.

(5) In respect of any assessment for the assessment year commencing on the 1st day of April, 1963—

(i) an assessee being an Indian company or any other company which has made the prescribed arrangements for the declaration and payment of dividends within India or an assessee (other than a company) whose total income includes any profits and gains derived from the export of any goods or merchandise out of India, shall be entitled to a deduction, from the amount of income-tax and super-tax with which he is chargeable of an amount equal to the income-tax and super-tax calculated respectively at one-tenth of the average rate of income-tax and of the average rate of super-tax on the amount of such profits and gains included in the total income;

(ii) where an assessee of the type referred to in clause (i) is engaged in the manufacture of any articles in an industry specified in the First Schedule to the Industries (Development and Regulation) Act, 1951 exports after the 28th day of February, 1963, such articles out of India, he shall be entitled, in addition to the deduction of tax referred to in clause (i), to a further deduction from the amount of tax with which he is chargeable for the assessment year of an amount equal to the income-tax and super-tax calculated respectively at the average rate of such taxes on an amount equal to two per cent. of the sale proceeds in respect of such export;

(iii) where an assessee of the type referred to in clause (i) engaged in the manufacture of any articles in an industry specified in the said First Schedule sells after the 28th day of February, 1963, such articles to any other person in India who himself exports them out of India and evidence is produced before the Income-tax Officer of such articles having been so exported, the assessee shall be entitled to a deduction from the amount of income-tax and super-tax with which he is chargeable for the assessment year of an amount equal to the income-tax and super-tax calculated respectively at the average rate of such taxes on a sum equal to two per cent. of the sale proceeds receivable by him in respect of such articles from the exporter;

(iv) the total of the deductions under this sub-section shall in no case exceed the amount of income-tax and super-tax otherwise payable by the assessee;

(v) nothing contained in clauses (ii) and (iii) shall apply in relation to fuels, textiles (including those dyed, printed or otherwise processed), sugar, vegetable oils and vanaspathi, cement and gypsum products and cigarettes respectively specified in items 2, 23, 25, 28, 35 and 38 of the First Schedule to the Industries (Development and Regulation) Act, 1951 and in section 65 of 1951, relation to such other articles in any other industry specified in that Schedule which may be notified in the Official Gazette by the Central Government having regard to the progress achieved by the industry or any other relevant factors;

(vi) the amount of any profits and gains derived from the export of any goods or merchandise out of India in respect of which deduction of income-tax and super-tax is admissible under clause (i) shall be computed in accordance with the rules made by the Central Board of Revenue in this behalf.

(6) In cases in which tax has to be deducted under sub-section (2) of section 192 and sections 193 to 195 of the Income-tax Act at the rates in force, the deduction shall be made at the rates specified in Part III of the First Schedule.

(7) For the purposes of this section, and of the rates of tax imposed thereby, and of section 3—

(i) the expressions "assessment year", "average rate of income-tax", "average rate of super-tax", "partner", "tax" and "total income" have the meanings respectively assigned to them under clauses (9), (10), (11), (23), (43) and (45) of section 2 of the Income-tax Act;

(ii) the expression "earned income" has the same meaning as in section 2 of the Finance (No. 2) Act, 1962.

20 of 1962.

(8) For the purposes of Paragraphs A and C of Part I of the First Schedule, the expression "residual income" means the amount of the total income as reduced by—

(a) the amount of the capital gains, if any, included therein; and

(b) the amount of tax (exclusive of additional surcharge) which would have been chargeable on such reduced total income if it had been the total income no part of which had been exempt from tax and on no portion of which deduction of tax had been admissible under any provisions of the Income-tax Act or this Act.

3. Notwithstanding anything contained in the provisions of Chapter VII or Chapter VIII-A or section 110 of the Income-tax Act or sub-section (5) of section 2 of this Act, in calculating any relief, rebate or deduction in respect of income-tax payable on the total income of an assessee which includes any income on which no income-tax is payable or in respect of which a deduction of income-tax is admissible under any of the aforesaid provisions, no account shall be taken of the additional surcharge.

4. In section 2 of the Income-tax Act, for clause (44), the following clause shall be, and shall be deemed always to have been, substituted, namely:—

"(44) 'Tax Recovery Officer' means—

(i) a Collector or an additional Collector;

(ii) any such officer empowered to effect recovery of arrears of land revenue or other public demand under any law relating to land revenue or other public demand for the time being in force in the State as may be authorised by the State Government, by general or special notification in the Official Gazette, to exercise the powers of a Tax Recovery Officer;

(iii) any Gazetted Officer of the Central or a State Government who may be authorised by the Central Government, by general or special notification in the Official Gazette, to exercise the powers of a Tax Recovery Officer;".

5. In section 13 of the Income-tax Act, in clause (b), for the words "trust or charitable institution", the words "trust for charitable purposes or a charitable institution" shall be, and shall be deemed always to have been, substituted.

6. In section 40 of the Income-tax Act, in clause (c),—

(1) before the *Explanation*, the following sub-clause shall be inserted, namely:—

"(iii) any expenditure which results directly or indirectly in the provision of any remuneration or benefit or amenity to an employee who is a citizen of India, to the extent such expenditure exceeds the amount calculated at the rate of five thousand rupees per month for any period of his employment after the 28th day of February, 1963:

Provided that in computing the aforesaid expenditure, any payments by way of gratuity or any sums comprised in the transferred balance of an employee participating in a recognised provident fund referred to in clause (vii) of sub-section (1) of section 17, or the amount of any compensation referred to in clause (i) or any payment referred to in clause (ii) of sub-section (3) of that section shall not be taken into account.”.

(2) In the *Explanation* after the words, brackets and figure “referred to in sub-clause (i)”, the words, brackets and figures “or in sub-clause (iii)” shall be inserted.

**Amend-
ment of
section 58.** 7. In section 58 of the Income-tax Act, in clause (b), after the words, brackets and figure “referred to in sub-clause (i)”, the words, brackets and figures “or in sub-clause (iii)” shall be inserted.

**Amend-
ment of
section
139.** 8. In section 139 of the Income-tax Act,—

(1) in sub-section (1), in clause (iii) (b) of the proviso, the words “as finally assessed” shall be, and shall be deemed always to have been, omitted;

(2) after sub-section (1), the following sub-section shall be, and shall be deemed always to have been, inserted, namely:—

“(1A) Where as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 264, the amount of tax on which interest was payable under clause (iii) of the proviso to sub-section (1) has been reduced, the interest shall be reduced accordingly, and the excess interest paid, if any, shall be refunded.”;

(3) after sub-section (7), the following sub-section shall be inserted, namely:—

“(8) Notwithstanding anything contained in clause (iii) of the proviso to sub-section (1), the Income-tax Officer may, in such cases and under such circumstances as may be prescribed, reduce or waive the interest payable by any person under any provision of this section.”.

9. After section 141 of the Income-tax Act, the following section Insertion
shall be inserted, namely:—
of new
section
141A.

"141A. (1) If any assessee having furnished a return under section 139 before the 1st day of January of the assessment year, pays before that date the tax determined as payable by him in pursuance of a provisional assessment made under section 141 or a regular assessment made under section 143 or section 144, or where neither of such assessments has been made before that date, the tax payable by him on the basis of such return after taking into consideration the tax paid for the assessment year under the provisions of Chapter XVII-B or Chapter XVII-C, he shall be entitled to a deduction from the amount of income-tax and super-tax with which he is chargeable of an amount equal to one per cent. of the amount of tax so paid by him before the said date.

(2) If any assessee does not furnish a return under section 139 before the 1st day of January of the assessment year and no regular assessment under section 144 is made before the said date, he shall, in addition to the amount of income-tax and super-tax with which he is chargeable, be liable to pay an amount calculated at two per cent. per annum from the said 1st day of January to—

(i) in the case where no return is furnished, the date on which a regular assessment is made under section 144;

(ii) in the case where a return is filed after the said 1st day of January, the date on which a provisional assessment under section 141 or a regular assessment under section 143 or section 144, whichever is earlier, is made;

the calculation in the case referred to in clause (i) being made with reference to the tax payable on regular assessment under section 144 and in the case referred to in clause (ii) being made with reference to the tax payable on the basis of the return, and in either case after taking into consideration the tax already paid under the provisions of Chapter XVII-B or Chapter XVII-C.

(3) If any assessee having furnished a return under section 139 before the 1st day of January of the assessment year does not pay before that date the tax payable on the basis of such return after taking into consideration the tax already paid for the assessment year under the provisions of Chapter XVII-B or Chapter XVII-C and no provisional assessment under section 141 or regular assessment under section 143 or section 144 is

made before the said date, he shall, in addition to the amount of income-tax and super-tax with which he is chargeable, be liable to pay an amount calculated at two per cent. per annum from the said 1st day of January to the date on which a provisional assessment under section 141 or a regular assessment under section 143 or section 144, whichever is earlier, is made, the calculation being made with reference to the tax payable on the basis of the return after taking into consideration the tax already paid under the provisions of the aforesaid Chapters.

(4) Any sum paid by an assessee in accordance with the provisions of sub-section (1) otherwise than in pursuance of a provisional assessment made under section 141 or a regular assessment under section 143 or section 144, shall be treated as a payment of tax in respect of the relevant assessment year, and credit therefor shall be given to the assessee in the regular assessment.”.

Amendment of section 146.

10. In section 146 of the Income-tax Act, for the words and figures “in accordance with the provisions of section 143 or 144”, the words and figures “in accordance with the provisions of section 143 or section 144” shall be substituted.

Amendment of section 209.

11. In section 209 of the Income-tax Act, after clause (c) and before the *Explanation*, the following clause shall be inserted, namely:—

“(d) in cases where the Income-tax Officer makes an amended order referred to in sub-section (3) of section 210 on the basis of a provisional assessment, the total income on the basis of which the relevant provisional assessment had been made shall be substituted for the total income referred to in clause (a).”.

Amendment of section 210.

12. In section 210 of the Income-tax Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) If, after the making of an order by the Income-tax Officer under this section and before the 15th day of February of the financial year, a regular assessment or a provisional assessment under section 141 of the assessee (or of the registered firm of which he is a partner) is made in respect of a previous year later than that referred to in the order of the Income-tax Officer, the Income-tax Officer may make an amended order requiring the assessee to pay in one instalment on the specified date, or in equal instalments on the specified dates, if more than one, falling after the date of the amended order, the advance tax computed

on the basis of the total income determined for the purposes of the regular assessment or the provisional assessment aforesaid as reduced by the amount, if any, paid in accordance with the original order.”.

13. In section 215 of the Income-tax Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Where before the date of completion of a regular assessment, a provisional assessment is made under section 141 or tax is paid by the assessee otherwise than in pursuance of such a provisional assessment—

- (i) interest shall be calculated in accordance with the foregoing provision up to the date on which the tax is paid either as provisionally assessed or otherwise; and
- (ii) thereafter interest shall be calculated at the rate aforesaid on the amount by which the tax as so paid (in so far as it relates to income subject to advance tax) falls short of the said seventy-five per cent.”.

14. In section 220 of the Income-tax Act, to sub-section (2), the following proviso shall be, and shall be deemed always to have been, added, namely:—

“Provided that, where as a result of an order under section 154, or section 155, or section 250, or section 254, or section 260, or section 262, or section 264, the amount on which interest was payable under this section had been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded.”.

15. In section 223 of the Income-tax Act, in sub-section (2), the words “in a district” shall be, and shall be deemed always to have been, omitted.

16. In section 233 of the Income-tax Act, for the words and figures “assessment made under section 143 or 144”, the words and figures “assessment made under section 143 or section 144” shall be substituted.

17. In section 271 of the Income-tax Act in sub-section (1), in clause (a), the word “his” occurring before the words “total income” shall be omitted.

18. In section 291 of the Income-tax Act, in sub-section (1), after the words “the evasion of payment of tax on income”, the words “it is necessary or expedient so to do” shall be inserted.

Amend-
ment of
section
297.

19. In section 297 of the Income-tax Act, in sub-section (2), in clause (e), before the words, figures and letter "section 23A of the repealed Act", the words, brackets and letters "subject to the provisions of clause (g) and clause (j) of this sub-section" shall be, and shall be deemed always to have been, inserted.

Amend-
ment of
the Second
Schedule.

20. In the Second Schedule to the Income-tax Act,—

(1) in Part I, after rule 19, the following rule shall be, and shall be deemed always to have been, inserted, namely:—

Entrust-
ment of
certain
functions
by Collec-
tor or
additional
Collector.

"19A. A Tax Recovery Officer, being a Collector or an additional Collector, may, subject to the approval of the State Government, entrust any of his functions as Tax Recovery Officer to any other officer lower than him in rank who is empowered to effect recovery of arrears of land revenue or other public demand under any law relating to land revenue or other public demand for the time being in force in the State and such officer shall, in relation to functions so entrusted to him, be deemed to be a Tax Recovery Officer";

(2) in rule 86, for sub-rule (1), the following sub-rule shall be, and shall be deemed always to have been, substituted, namely:—

"(1) An appeal from any original order passed by the Tax Recovery Officer under this Schedule, not being an order which is conclusive, shall lie—

(a) in the case of a Tax Recovery Officer, being a Collector or an additional Collector or an officer referred to in sub-clause (iii) of clause (44) of section 2, to the revenue authority to which appeals ordinarily lie against the orders of a Collector under the law relating to land revenue of the State concerned; and

(b) in any other case, to the revenue authority to which an appeal or an application for revision would ordinarily lie, if the order passed by him were the order under the law relating to land revenue or other public demand for the time being in force in the State concerned.".

Amend-
ment of
Act 27 of
1957.

21. In section 5 of the Wealth-tax Act, 1957,—

(1) in sub-section (1)—

(a) clause (xv) shall be omitted;

(b) in clause (xvi), for the words "twelve year national plan savings certificates held by the assessee", the words "twelve year national plan savings certificates, ten year

defence deposit certificates and twelve year national defence certificates held by the assessee, to the extent to which the amount of such certificates or deposits do not exceed in each case the maximum amount permitted to be invested or deposited therein" shall be substituted;

(2) to sub-section (3), the following proviso shall be added, namely:—

"Provided that for the purpose of making any assessment for the financial year commencing on the 1st day of April, 1963, the provisions of clause (b) shall not apply to ten year defence deposit certificates and twelve year national defence certificates held by the assessee on the relevant valuation date.".

22. In the Indian Tariff Act, 1934 (hereinafter referred to as the Tariff Act),— Amendment of
Act 32 of
1934.

(1) in section 2A,—

(i) in sub-section (1),—

(a) after the words "manufactured in India" occurring before the *Explanation*, the following shall be inserted, namely:—

"and if such excise duty on a like article is leviable at any percentage of its value, the customs duty to which the imported article shall be so liable shall be calculated at that percentage of the value of the imported article.";

(b) in the *Explanation*, for the words, "In this sub-section", the words, brackets, figure and letter "In this sub-section and sub-section (1A)" shall be substituted;

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) For the purpose of calculating under this section the customs duty on any imported article equal to the excise duty for the time being leviable on a like article, if produced or manufactured in India, where such excise duty is leviable at any percentage of its value, the value of the imported article shall, notwithstanding any thing contained in section 14 of the Customs Act, 1962 be the aggregate of—

(i) the value of the imported article determined under sub-section (1) of the said section 14 or the tariff value of such article fixed under sub-section (2) of that section, as the case may be;

(ii) any duty of customs chargeable on that article under section 12 of the Customs Act, 1962 other than the duty referred to in sub-section (1); and

(iii) any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs.";

(2) the First Schedule shall be amended in the manner specified in the Second Schedule to this Act.

Surchage on duties of customs. 23. (1) In the case of goods chargeable with a duty of customs which is specified in the First Schedule to the Tariff Act as amended by this Act or any subsequent Act of Parliament, or in that Schedule read with any notification of the Central Government for the time being in force, there shall be levied and collected as an addition to, and in the same manner as, the total amount so chargeable, a sum equal to 10 per cent. of such amount:

Provided that in computing the total amount so chargeable, any duty chargeable under section 2A of the Tariff Act or section 24 of this Act shall not be included.

(2) Sub-section (1) shall cease to have effect after the 31st day of March, 1964 except as respects things done or omitted to be done before such cesser; and section 6 of the General Clauses Act, 1897 10 of 1897. shall apply upon such cesser as if the said sub-section had then been repealed by a Central Act.

Regulatory duty of customs. 24. (1) There shall be levied and collected, with effect from such date as may be specified in this behalf by the Central Government by notification in the Official Gazette, on all goods mentioned in the First Schedule to the Tariff Act as amended by this Act or any subsequent Act of Parliament, a regulatory duty of customs which shall be—

(a) twenty-five per cent. of the rate, if any, specified in the said First Schedule read with any notification issued under section 3A or sub-section (1) of section 4 of the Tariff Act; or

(b) ten per cent. of the value of the goods as determined in accordance with the provisions of section 14 of the Customs Act, 1962,

whichever is higher:

Provided that different dates may be specified by the Central Government for different kinds of goods.

(2) Sub-section (1) shall cease to have effect after the 31st day of March, 1964 except as respects things done or omitted to be done before such cases and section 6 of the General Clauses Act, 1897 10 of 1897.

shall apply upon such cesser as if the said sub-section had then been repealed by a Central Act.

(3) The duty of customs leviable under this section in respect of any goods referred to in sub-section (1) shall be in addition to any other duty of customs chargeable on such goods under the Customs Act, 1962.

(4) The provisions of the Customs Act, 1962 and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of the regulatory duty of customs leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of customs on such goods under that Act or those rules and regulations.

(5) Every notification issued under sub-section (1) shall, as soon as may be after it is issued, be placed before each House of Parliament.

25. In the Indian Tariff (Amendment) Act, 1949, in sections 4 and 5, for the figures "1963", the figures "1964" shall be substituted. Amendment of
Act 1 of
1949.

26. In the Central Excises and Salt Act, 1944 (hereinafter referred to as the Central Excises Act), in the First Schedule,— Amendment of
Act 1 of
1944.

(a) in Item No. 4,—

(I) under "I. Unmanufactured tobacco"—

for the entry in the third column against sub-item (5), the entry "One rupee and sixty naye paise" shall be substituted;

(2) under "II. Manufactured tobacco"—

for the entries in the third column against sub-items (2) (i), (2) (ii), (2) (iii), (2) (iv) and (2) (v), the entries "Thirty-four rupees", "Seventeen rupees", "Eight rupees and fifty naye paise", "Four rupees and twenty naye paise" and "Two rupees" shall, respectively, be substituted;

(b) in Item No. 6, for the entry in the third column, the entry "Four hundred and ten rupees per kilolitre at fifteen degrees of Centigrade thermometer" shall be substituted;

(c) in Item No. 7, for the entry in the third column, the entry "Two hundred and ten rupees per kilolitre at fifteen degrees of Centigrade thermometer" shall be substituted;

(d) in Item No. 8, for the entries in the third column against sub-items (a) and (b), the entries "Three hundred and ninety rupees per kilolitre at fifteen degrees of Centigrade thermometer" and "Three hundred and seventy rupees per kilolitre at fifteen degrees of Centigrade thermometer" shall, respectively, be substituted;

(e) in Item No. 9, for the entry in the third column, the entry "One hundred and ninety-five rupees per metric tonne" shall be substituted;

(f) in Item No. 13, for the entry in the third column, the entry "Thirty-two rupees per quintal" shall be substituted;

(g) in Item No. 14,—

(1) in sub-item I(4)(ii), the words "and ready mixed paints, sold by weight" occurring in the second column shall be omitted:

(2) in sub-item I (4)(iii), the words "sold by volume" occurring in the second column shall be omitted;

(3) for the entries in the third column against sub-items I(1) (ii), I(3) (ii), I(3) (iv), I(4) (i), I(4) (ii), I(4) (iii), II(i) and III(i), the entries "Seventy-five naye paise per kilogram", "Thirty rupees and fifty naye paise per quintal", "One rupee and five naye paise per litre", "Seventy-five naye paise per kilogram", "Nineteen rupees and fifty naye paise per quintal", "Sixty-five naye paise per litre", "Thirty-five naye paise per litre" and "One rupee and fifty naye paise per litre" shall, respectively, be substituted;

(h) in Item No. 15, for the entries in the third column against sub-items I(1) (i), I(1) (ii), I(2), I(3), II(i) and II(ii), the entries "Fifteen rupees and fifty naye paise per quintal", "Eighteen rupees per quintal", "Thirty-seven rupees and fifty-five naye paise per quintal", "Thirty-seven rupees and fifty-five naye paise per quintal", "Thirteen rupees and twenty-five naye paise per quintal" and "Fifteen rupees and fifty naye paise per quintal" shall, respectively, be substituted;

(i) in Item No. 17, for the entry in the third column against sub-item (5), the entry "Thirty-five naye paise per kilogram" shall be substituted;

(j) in Item No. 26A, for the entries in the third column against sub-items (1) and (2), the entries "Three hundred rupees per metric tonne" and "Five hundred rupees per metric tonne" shall, respectively, be substituted;

(k) in Item No. 26AA, sub-item (i) shall be re-numbered as (ia) thereof and before the sub-item (ia) as so re-numbered, the following sub-item shall be inserted, namely:—

"(i) Semi-finished steel including Thirty rupees per metric tonne plus the blooms, billets, slabs, sheet bars, excise duty for the time being leviable tin bars and hoe bars".

27. (1) When goods of the description mentioned in this section chargeable with a duty of excise under the First Schedule to the Central Excises Act, as amended by this Act or any subsequent Act of Parliament or under that Schedule read with any notification of the Central Government for the time being in force, are assessed to duty, there shall be levied and collected—

(a) as respects goods comprised in Items Nos. 6, 8, 9, 14D, 17(3), 22A, 23A except sub-item (1) thereof, 23B, 28, 29, 31 except sub-item (1) thereof and 32 of that Schedule, a special duty of excise equal to 10 per cent. of the total amount so chargeable on such goods;

(b) as respects goods comprised in Items Nos. 2, 3 (1), sub-items I, II(2) and II(3) of Item No. 4, Items Nos. 13, 14, 14F, 15, 15A, 15B, 16, 16A, 17 except sub-item (3) thereof, 18A(2), 21, 22, 23, 23A(1), 27, 30, 31(1), 33, sub-items (1) and (4) of Item No. 34 and Item No. 37 of that Schedule, a special duty of excise equal to 20 per cent. of the total amount so chargeable on such goods; and

(c) as respects goods comprised in Items Nos. 4 II(1), 18, 18A(1), 18B, 20, 29A, 33A, sub-items (2) and (3) of Item No. 34 and radiograms comprised in Item No. 37A of that Schedule, a special duty of excise equal to 33 1/3 per cent. of the total amount so chargeable on such goods.

(2) Sub-section (1) shall cease to have effect after the 31st day of March, 1964 except as respects things done or omitted to be done before such cesser; and section 6 of the General Clauses Act, 1897 shall apply upon such cesser as if the said sub-section had then been repealed by a Central Act.

(3) The duties of excise referred to in sub-section (1) in respect of the goods specified therein shall be in addition to the duties of excise chargeable on such goods under the Central Excises Act or any other law for the time being in force and such special duties shall be levied for purposes of the Union and the proceeds thereof shall not be distributed among the States.

(4) The provisions of the Central Excises Act and the rules made thereunder, including those relating to refunds and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of the duty of excise leviable under this section in respect

of any goods as they apply in relation to the levy and collection of the duties of excise on such goods under that Act or those rules.

Regulatory duty of excise.

28. (1) There shall be levied and collected, with effect from such date as may be specified in this behalf by the Central Government by notification in the Official Gazette, on all goods mentioned in the First Schedule to the Central Excises Act as amended by this Act or any subsequent Act of Parliament, a regulatory duty of excise which shall be ten per cent. of the value of the goods as determined in accordance with the provisions of section 4 of the Central Excises Act:

Provided that different dates may be specified by the Central Government for different kinds of goods.

(2) Sub-section (1) shall cease to have effect after the 31st day of March, 1964, except as respects things done or omitted to be done before such cesser; and section 6 of the General Clauses Act, 1897 10 of 1897 shall apply upon such cesser as if the said sub-section had then been repealed by a Central Act.

(3) The duties of excise referred to in sub-section (1) in respect of the goods specified therein shall be in addition to the duties of excise chargeable on such goods under the Central Excises Act or any other law for the time being in force and such regulatory duties shall be levied for purposes of the Union and the proceeds thereof shall not be distributed among the States.

(4) The provisions of the Central Excises Act and the rules made thereunder, including those relating to refunds and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of the regulatory duty of excise leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of excise on such goods under that Act or those rules.

(5) Every notification issued under sub-section (1) shall, as soon as may be after it is issued, be placed before each House of Parliament.

Discontinuance of salt duty.

29. For the year beginning on the first day of April, 1963, no duty under the Central Excises Act, or the Tariff Act shall be levied in respect of salt manufactured in, or imported into, India.

Amendment of Act 16 of 1955.

30. In the Schedule to the Medicinal and Toilet Preparations (Excise Duties) Act, 1955,—

(a) in Item No. 1, in the column relating to "Rate of duty", for the words "Ten per cent. ad valorem", the words "Rupee one and ten naye paise per litre of the strength of London proof

spirit or ten per cent. *ad valorem*, whichever is higher." shall be substituted;

(b) in Item No. 2—

(1) in the column relating to "Description of dutiable goods", the words "which are prepared by distillation or to which alcohol has been added, and" shall be omitted;

(2) in the column relating to "Rate of duty", the words "or ten per cent. *ad valorem*, whichever is higher" shall be inserted at the end;

(c) in Item No. 3, after sub-item (ii), the following item shall be inserted, namely:—

"(iii) Ayurvedic preparations, containing alcohol, which are prepared by distillation or to which alcohol has been added, and which are capable of being consumed as ordinary alcoholic beverages.

Rupees fifteen and fifty naye paise per litre of the strength of London proof spirit.";

(d) in Item No. 6, in the column relating to "Rate of duty", for the words "Twenty-five per cent. *ad valorem*", the words "Rupees three and eighty-five naye paise per litre of the strength of London proof spirit or twenty-five per cent. *ad valorem*, whichever is higher" shall be substituted.

31. For the First Schedule to the Indian Post Office Act, 1898, the following Schedule shall be substituted, namely:—

Amendment of
Act 6 of
1898.

"THE FIRST SCHEDULE INLAND POSTAGE RATES

(See section 7)

Letters

For a weight not exceeding fifteen grams	15 naye paise.
--	----------------

For every fifteen grams, or fraction thereof, exceeding fifteen grams	10 naye paise.
---	----------------

Letter-cards

For a letter-card	10 naye paise.
-----------------------------	----------------

Post cards

Single	6 naye paise.
Reply	12 naye paise.

Book, Pattern and Sample packets

For the first fifty grams or fraction thereof	10 naye paise.
---	----------------

For every additional twenty-five grams, or fraction thereof, in excess of fifty grams	5 naye paise.
---	---------------

Registered Newspapers

For a weight not exceeding one hundred grams	2 naye paise.
--	---------------

For a weight exceeding one hundred grams and not exceeding four hundred grams	3 naye paise
---	--------------

For every two hundred grams, or fraction thereof, exceeding two hundred grams	3 naye paise
---	--------------

In the case of more than one copy of the same issue of a registered newspaper being carried in the same packet—

for a weight not exceeding one hundred grams 3 naye paise.
for every additional fifty grams, or fraction thereof, in excess of one hundred grams 2 naye paise :

Provided that such packet shall not be delivered at any addressee's residence but shall be given to a recognised agent at the Post Office.

Parcels

For a weight not exceeding four hundred grams 60 naye paise.
For every four hundred grams, or fraction thereof, exceeding four hundred grams 60 naye paise.”

THE FIRST SCHEDULE

(See section 2)

PART I

Income-tax and surcharges on income-tax

Paragraph A

(i) In the case of every individual who is married and every Hindu undivided family whose total income does not exceed Rs. 20,000 in either case—

Rates of Income-tax

Where the individual has no child wholly or mainly dependent on him or where the Hindu undivided family has no minor coparcener.

Where the individual has one child wholly or mainly dependent on him or where the Hindu undivided family has one minor coparcener.

Where the individual has more than one child wholly or mainly dependent on him or where the Hindu undivided family has more than one minor coparcener.

	Rs.	Rs.	Rs.	
(1) On the first 3,000 of total income	3,300 of total income	3,600 of total income	3,600 of total income	Nil
(2) On the next 2,000	1,700	“	1,400	”
(3) On the next 2,500	2,500	“	2,500	”
(4) On the next 2,500	2,500	“	2,500	”
(5) On the next 2,500	2,500	“	2,500	”
(6) On the next 2,500	2,500	“	2,500	”
(7) On the next 2,500	2,500	“	2,500	”
(8) On the next 2,500	2,500	“	2,500	”

(ii) In the case of every individual who is not married and every individual or Hindu undivided family whose total income in either case exceeds Rs. 20,000 and in the case of every unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in

sub-clause (vii) of clause (31) of section 2 of the Income-tax Act not being a case to which any other Paragraph of this Part applies:—

	Rs.
(1) On the first	1,000 of total income
(2) On the next	4,000 ,,
(3) On the next	2,500 ,,
(4) On the next	2,500 ,,
(5) On the next	2,500 ,,
(6) On the next	2,500 ,,
(7) On the next	2,500 ,,
(8) On the next	2,500 ,,
(9) On the balance of total income	25% :

Provided that for the purposes of this Paragraph—

(i) no income-tax shall be payable on a total income which does not exceed the limit specified below;

(ii) the income-tax payable shall in no case exceed half the amount by which the total income exceeds the said limit;

(iii) the income-tax payable by an individual who is married or a Hindu undivided family whose total income exceeds in either case Rs. 20,000 shall not exceed the aggregate of—

(a) the income-tax which would have been payable if the total income had been Rs. 20,000;

(b) half the amount by which the total income exceeds Rs. 20,000;

The limit aforesaid shall be—

(i) Rs. 6,000 in the case of every Hindu undivided family which as at the end of the previous year satisfies either of the following conditions, namely:—

(a) that it has at least two members entitled to claim partition who are not less than eighteen years of age; or

(b) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family;

(ii) Rs. 3,000 in every other case.

Surcharges on income-tax

The amount of income-tax computed at the rates hereinbefore specified shall be increased by the aggregate of the surcharges calculated as under:—

(a) a surcharge for purposes of the Union equal to the sum of—

(i) two and a half per cent. of the amount of income-tax calculated at the average rate of income-tax on the income under the head "Salaries" included in the total income;

(ii) five per cent. of the amount of income-tax calculated at the average rate of income-tax on the total income as reduced by the income under the head "Salaries" included therein; and

(iii) where the earned income included in the total income exceeds Rs. 1,00,000, ten per cent. of the difference between the amount of income-tax which would have been payable on the whole of the earned income included in the total income if such earned income had been the total income and the amount of income-tax payable on a total income of Rs. 1,00,000;

(b) a special surcharge at fifteen per cent. of the difference between the amount of income-tax on the total income and the amount of income-tax on the whole of the earned income, if any, included in the total income if such earned income had been the total income:

Provided that the surcharge for purposes of the Union and the special surcharge, both together, shall not exceed half the amount by which the total income as reduced by the amount of income-tax payable by the assessee exceeds the limit specified below:—

The limit aforesaid shall be—

(i) Rs. 6,000 in the case of every Hindu undivided family which as at the end of the previous year satisfies either of the following conditions, namely:—

(a) that it has at least two members entitled to claim partition who are not less than eighteen years of age; or

(b) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family;

(ii) Rs. 3,000 in every other case;

(c) an additional surcharge for purposes of the Union calculated on the amount of the residual income at the following rates, namely:—

(i) On the first Rs. 6,000 of the residual income	4%
(ii) On the next Rs. 9,000 of the residual income	6%
(iii) On the next Rs. 12,000 of the residual income	8%
(iv) On the next Rs. 15,000 of the residual income	9%
(v) On the balance of the residual income	10%:

Provided that—

(i) no additional surcharge shall be levied where the residual income does not exceed the limit specified below;

(ii) the additional surcharge shall in no case exceed the aggregate of the following sums, namely:—

(a) an amount calculated at three per cent. on so much of the amount of residual income as does not exceed the limit specified below;

(b) one-half of the amount by which the residual income exceeds the limit specified below.

The limit aforesaid shall be—

(i) Rs. 6,000 in the case of every Hindu undivided family which as at the end of the previous year satisfies either of the following conditions, namely:—

(a) that it has at least two members entitled to claim partition who are not less than eighteen years of age; or

(b) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family;

(ii) Rs. 3,600 in the case of every individual who has more than one child wholly or mainly dependent on him or in the case of every Hindu undivided family having more than one minor coparcener;

(iii) Rs. 3,300 in the case of every individual who has one child wholly or mainly dependent on him or in the case of every Hindu undivided family having one minor coparcener;

(iv) Rs. 3,000 in every other case.

Subs. by Act 5 of 1964, s. 5u (Retrospectively)

Explanation.—For the purposes of this Paragraph, in the case of every Hindu undivided family governed by the *Mitakshara* law, a son shall be deemed to be entitled to claim partition of the coparcenary property against his father or grandfather notwithstanding any custom to the contrary.

Paragraph B

In the case of every local authority,—

Rate of income-tax

On the whole of the total income ..	30%
-------------------------------------	-----

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union of five per cent. of the amount of income-tax.

Paragraph C

In every case in which under the provisions of the Income-tax Act, income-tax is to be charged at the maximum rate,—

Rate of income-tax

On the whole of the total income ..	25%
-------------------------------------	-----

Surcharges on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall be increased by the aggregate of the surcharges calculated as under:—

(a) a surcharge for purposes of the Union of five per cent. of the amount of income-tax;

(b) a special surcharge of fifteen per cent. of the amount of income-tax; and

(c) an additional surcharge for purposes of the Union calculated on the amount of the residual income at the rates as specified in Paragraph A of this Part.

Paragraph D

In the case of every company,—

Rate of income-tax

On the whole of the total income ..	25%
-------------------------------------	-----

Paragraph E

In the case of every registered firm,

Rates of income-tax

		Where the firm has four or less partners	Where the firm has five or more partners
		as on the last day of the previous year	
(1) On the first Rs. 25,000 of total income	.	.	<i>Nil</i>
(2) On the next Rs. 15,000 of total income	.	.	5%
(3) On the next Rs. 20,000 of total income	.	.	6%
(4) On the next Rs. 40,000 of total income	.	.	7%
(5) On the next Rs. 50,000 of total income	.	.	8%
(6) On the balance of total income	.	.	10%
			12%

Surcharge on income-tax

The amount of income-tax computed at the rates hereinbefore specified shall be increased by a surcharge for purposes of the Union equal to the sum of—

(i) twenty per cent. of the amount of income-tax payable by the firm on its income from any business carried on by it calculated at the rate of income-tax applicable to its total income; and

(ii) ten per cent. of the amount of income-tax payable by it on its income from all sources other than from any business carried on by it calculated at the rate of income-tax applicable to its total income.

PART II

Super-tax and surcharges on super-tax

Paragraph A

In the case of every individual, Hindu undivided family, unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies.—

Rates of super-tax

(1) On the first Rs. 20,000 of total income	Nil
(2) On the next Rs. 5,000 of total income	8%
(3) On the next Rs. 5,000 of total income	18%
(4) On the next Rs. 10,000 of total income	22%
(5) On the next Rs. 10,000 of total income	32%
(6) On the next Rs. 10,000 of total income	40%
(7) On the next Rs. 10,000 of total income	45%
(8) On the balance of total income	47·5%

Surcharges on super-tax

The amount of super-tax computed at the rates hereinbefore specified shall be increased by the aggregate of the surcharges calculated as under:—

(a) A surcharge for purposes of the Union equal to the sum of—

(i) two and a half per cent. of the amount of super-tax calculated at the average rate of super-tax on the income under the head "Salaries" included in the total income;

(ii) five per cent. of the amount of super-tax calculated at the average rate of super-tax on the total income as reduced by the income under the head "Salaries" included therein; and

(iii) where the earned income included in the total income exceeds Rs. 1,00,000, ten per cent. of the difference between the amount of super-tax which would have been payable on the whole of the earned income included in the total income, if such earned income had been the total income and the amount of super-tax payable on a total income of Rs. 1,00,000;

(b) A special surcharge at fifteen per cent. of the difference between the amount of super-tax on the total income and the amount of super-tax on the whole of the earned income, if any, included in the total income, if such earned income had been the total income.

Paragraph B

In the case of every local authority,—

Rate of super-tax

On the whole of the total income	.. 16%
----------------------------------	--------

Surcharge on super-tax

The amount of super-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union of $12\frac{1}{2}$ per cent. of the amount of super-tax.

Paragraph C

In the case of every association of persons being a co-operative society as defined in clause (19) of section 2 of the Income-tax Act,—

Rates of super-tax

(1) On the first Rs. 25,000 of total income ..	<i>Nil</i>
(2) On the balance of total income ..	16%

Surcharge on super-tax

The amount of super-tax computed at the rates hereinbefore specified shall be increased by a surcharge for purposes of the Union of $12\frac{1}{2}$ per cent. of the amount of super-tax.

Paragraph D

In the case of every company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation 31 of 1956. Act, 1956,—

Rates of Super-tax

On the whole of the total income	.. 55%:
----------------------------------	---------

Provided that—

(i) a rebate at the rate of 50 per cent. on so much of the total income as consists of dividends from any Indian company; and at the rate of 35 per cent. on the balance of the total income shall be allowed in the case of any company which—

(a) in respect of its profits liable to tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1963, has made the prescribed arrangements for the declaration and payment within India of the dividends payable out of such profits in accordance with the provisions of section 194 of that Act; and

(b) is such a company as is referred to in section 108 of the Income-tax Act with a total income not exceeding Rs. 25,000;

(ii) a rebate at the rate of 50 per cent. on so much of the total income as consists of dividends from a subsidiary Indian company formed and registered before the 1st day of April, 1961; at the rate of 45 per cent. on so much of the total income as consists of dividends from any other Indian company; and at the rate of 30 per cent. on the balance of the total income shall be allowed in the case of any company which satisfies condition (a) but not condition (b) of the preceding clause;

(iii) a rebate at the rate of 50 per cent. on so much of the total income as consists of dividends from a subsidiary Indian company formed and registered before the 1st day of April, 1961; at the rate of 30 per cent. on so much of the total income as consists of dividends from an Indian company, not being a subsidiary company, formed and registered before the 1st day of April, 1959; at the rate of 45 per cent. on so much of the total income as consists of dividends from any other Indian company formed and registered on or after the 1st day of April, 1959; at

the rate of 30 per cent. on so much of the total income as consists of royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern on or after the 1st day of April, 1961 and which has been approved by the Central Government; and at the rate of 17 per cent. on the balance of the total income shall be allowed in the case of any company not entitled to a rebate under either of the preceding clauses:

Provided further that—

(i) the amount of the rebate under clause (i) or clause (ii) of the preceding proviso shall be reduced by the sum, if any, equal to the amount or the aggregate of the amounts, as the case may be, computed as hereunder:

(a) on the aggregate of the sums computed in the manner at the rate of 100% provided in clause (i) of the second proviso to Paragraph D of Part II of the First Schedule to the Finance (No. 2) Act, 1962 as reduced by the amount, if any, which is deemed to have been taken into account, in accordance with clause (ii) of the said proviso, for the purpose of reducing the rebate mentioned in clause (i) of the said proviso to *nil*; and

(b) on the amount representing the face value of any bonus shares or the amount of any bonus issued to its shareholders during the previous year with a view to increasing the paid-up capital.

(ii) where the sum arrived at in accordance with clause (i) of this proviso exceeds the amount of the rebate arrived at in accordance with clause (i) or clause (ii), as the case may be, of the preceding proviso, only so much of the amounts of reduction mentioned in sub-clauses (a) and (b) of clause (i) of this proviso as is sufficient, in that order, to reduce the rebate to *nil* shall be deemed to have been taken into account for the purpose:

Provided further that the super-tax payable by a company, the total income of which exceeds rupees twenty-five thousand, shall not exceed the aggregate of—

(a) the super-tax which would have been payable by the company if its total income had been rupees twenty-five thousand; and

(b) half the amount by which its total income exceeds rupees twenty-five thousand.

Explanation I.—For the purposes of this Paragraph, where any portion of the profits and gains of a company is not included in its total income by reason of such portion being agricultural income, the amount representing the face value of any bonus shares and the amount of any bonus issued to its shareholders shall each be deemed to be such proportion thereof as the average of the total income of

the company in the five previous years in which the company has been in receipt of taxable income immediately preceding the relevant previous year bears to the average of its total profits and gains (excluding capital receipts) for the preceding five years aforesaid, reduced by such allowances as may be admissible under the Income-tax Act which have not been taken into account by the company in its profit and loss accounts for the preceding five years aforesaid.

Explanation II.—For the purposes of this Paragraph and Part III of the Schedule, a company shall be deemed to be a subsidiary of another company if that other company holds more than half in nominal value of the equity share capital of the first mentioned company.

Paragraph E

In the case of the Life Insurance Corporation of India established 31 of 1956, under the Life Insurance Corporation Act, 1956,—

Rate of super-tax

On the whole of its profits and gains from life insurance business	22.5%
--	-------

PART III

Rates for deduction of tax at source in certain cases

In every case in which under the provisions of sub-section (2) of section 192 and sections 193 to 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to deduction at the following rates:—

	Income-tax		Super tax		
	Rate of income-tax	Rates of surcharges		Rate of super-tax	Rates of surcharges
		Surcharge for purposes of the Union	Special surcharge		

1. In the case of a person other than a company—

- (a) in every case, on the whole income, (excluding interest payable on any security of the Central Government issued or declared to be income-tax free, and interest payable on any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government), and

	Income-tax		Super-tax	
	Rate of Income-tax	Rates of surcharges		Rate of super-tax
		Surcharge for purposes of the Union	Special surcharge	
(b) in addition, where the person is non-resident in India, on the whole income.				Super-tax and surcharges on super-tax in accordance with the provisions of clause (b) of sub-section (x) of section 113 of the Income-tax Act.

	Rate of income-tax	Rate of super-tax
2. In the case of a company—		
(a) in every case—		
(i) on the whole income (excluding interest payable on any security of the Central Government issued or declared to be income-tax free and interest payable on any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government); and	25%	
(ii) on the whole income (excluding dividends payable by an Indian company referred to in clause (iv) of sub-section (x) of section 99 of the Income-tax Act); and		5%
(b) in addition, where the company is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India,—		
(i) on the income from dividends (excluding dividends payable by an Indian company referred to in clause (iv) of sub-section (x) of section 99 of the Income-tax Act)—		
(1) on dividends payable by any of its subsidiary Indian companies formed and registered before the 1st day of April, 1961	Nil	
(2) on dividends payable by an Indian company, not being a subsidiary company, formed and registered before the 1st day of April, 1959		20%
(3) on dividends payable by any other Indian company formed and registered on or after the 1st day of April, 1959		5%
(ii) on the income from royalties payable by an Indian concern in pursuance of an agreement which is made by it with the Indian concern on or after the 1st day of April, 1961 and which has been approved by the Central Government		20%
(iii) on any other income		33%

2. In the case of a company—**(a) in every case—**

(i) on the whole income (excluding interest payable on any security of the Central Government issued or declared to be income-tax free and interest payable on any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government); and

25%

(ii) on the whole income (excluding dividends payable by an Indian company referred to in clause (iv) of sub-section (x) of section 99 of the Income-tax Act); and

5%

(b) in addition, where the company is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India,—

(i) on the income from dividends (excluding dividends payable by an Indian company referred to in clause (iv) of sub-section (x) of section 99 of the Income-tax Act)—

(1) on dividends payable by any of its subsidiary Indian companies formed and registered before the 1st day of April, 1961

Nil

(2) on dividends payable by an Indian company, not being a subsidiary company, formed and registered before the 1st day of April, 1959

20%

(3) on dividends payable by any other Indian company formed and registered on or after the 1st day of April, 1959

5%

(ii) on the income from royalties payable by an Indian concern in pursuance of an agreement which is made by it with the Indian concern on or after the 1st day of April, 1961 and which has been approved by the Central Government

20%

(iii) on any other income

33%

THE SECOND SCHEDULE

[See section 22(2)]

In the First Schedule to the Tariff Act,—

(i) in Item No. 24, for the entry in the fourth column, the entry "Rs. 60·00 per kilogram" shall be substituted;

(ii) in Item No. 24(3), for the entry in the fourth column and the entry in the sixth column, the entry "Rs. 50·00 per kilogram" shall be substituted;

(iii) in Item No. 28A, for the entry in the second column, the following entry shall be substituted, namely:—

"Patent or proprietary medicines not containing alcohol, opium, Indian hemp or other narcotic drugs or other narcotics other than those medicines which are exclusively Ayurvedic, Unani, Sidha or Homoeopathic."

Explanation.—'Patent or proprietary medicines' means any drug or medicinal preparation, in whatever form, for use in the internal or external treatment of, or for the prevention of ailments in, human beings or animals, which bears either on itself or on its container or both, a name which is not specified in a monograph in a Pharmacopoeia, Formulary or other publications notified in this behalf by the Central Government in the Official Gazette, or which is a brand name, that is, a name or a registered trade mark under the Trade and Merchandise Marks Act, 1958 (43 of 1958), or any other mark such as a symbol, monogram, label, signature or invented words or any writing which is used in relation to that medicine for the purpose of indicating or so as to indicate a connection in the course of trade between the medicine and some person having the right either as proprietor or otherwise to use the name or mark with or without any indication of the identity of that person.";

(iv) in Item No. 29, for the entry in the fourth column, the entry "Rs. 12·00 per 100 linear metres" shall be substituted;

(v) in Items Nos. 30, 73, 73(1), 77 and 77(5), for the entries against each of them in the fourth and fifth columns, the entries "60 per cent. *ad valorem*" and "50 per cent. *ad valorem*" shall, respectively, be substituted;

(vi) in Item No. 30(1), for the entries in the fourth column against sub-items (a), (b) (i) and (b) (ii), the entry "50 per cent. *ad valorem*" shall be substituted;

(vii) in Item No. 39, for the entry in the fourth column, the entry "20 per cent. *ad valorem*" shall be substituted;

(viii) in Items Nos. 63(1), 63(20A) and 63(35), for the entry against each of them in the fourth column, the entry "30 per cent. *ad valorem*" shall be substituted;

(ix) in Item No. 63(2),—

(1) for the entry in the fourth column against sub-item (a) (i), the following entry shall be substituted, namely:—

"Rs. 22·00 per tonne or 10 per cent. *ad valorem*, whichever is higher, *plus* 5 per cent. *ad valorem*";

(2) for the entry in the fourth column against sub-item (a) (ii), the following entry shall be substituted, namely:—

"Rs. 64·00 per tonne *plus* 5 per cent. *ad valorem*";

(3) for the entry in the fourth column against sub-item (b), the following entry shall be substituted, namely:—

"Rs. 60·00 per tonne *plus* 5 per cent. *ad valorem*";

(x) in Item No. 63(3),—

(1) for the entry in the fourth column against sub-item (i), the following entry shall be substituted, namely:—

"Rs. 31·00 per tonne or 10 per cent. *ad valorem*, whichever is higher, *plus* 5 per cent. *ad valorem*";

(2) for the entry in the fourth column against sub-item (ii), the following entry shall be substituted, namely:—

"Rs. 60·00 per tonne or 20 per cent. *ad valorem*, whichever is higher, *plus* 5 per cent. *ad valorem*";

(xi) in Item No. 63(9), for the entry in the fourth column, the following entry shall be substituted, namely:—

"Rs. 60·00 per tonne *plus* 10 per cent. *ad valorem*";

(xii) in Item No. 63(10),—

(1) for the entry in the fourth column against sub-item (i), the entry "Rs. 80·00 per tonne *plus* 5 per cent. *ad valorem*" shall be substituted;

(2) for the entry in the fourth column against sub-item (ii), the entry "Rs. 100·00 per tonne *plus* 5 per cent. *ad valorem*" shall be substituted;

(xiii) in Item No. 63(12), in the entry in the second column, for the words "Iron or steel bolts and nuts", the words "Iron or steel bolts and nuts, not otherwise specified," shall be substituted;

(xiv) in Item No. 63(14A), for the figures "50" and "40" in the fourth and fifth columns, the figures "55" and "45" shall, respectively, be substituted;

(xv) in Item No. 63(17), for the words and figure "*plus* 5 per cent. *ad valorem*" in the entry against each of the sub-items,

(ii) and (iii) in the fourth column, the words and figures "plus 10 per cent. *ad valorem*" shall be substituted;

(xvi) in Item No. 63(18), for the figures "20" and "40" in the fourth column against sub-items (a) and (b), the figures "25" and "45" shall, respectively, be substituted;

(xvii) in Item No. 63(19),—

(1) for the entry in the fourth column against sub-item (a)(i), the following entry shall be substituted, namely:—

"Rs. 15·00 per tonne or 10 per cent. *ad valorem*, whichever is higher, plus 5 per cent. *ad valorem*";

(2) for the entry in the fourth column against sub-item (a)(ii), the following entry shall be substituted, namely:—

"Rs. 40·00 per tonne plus 5 per cent. *ad valorem*";

(3) for the entry in the fourth column against sub-item (b), the following entry shall be substituted, namely:—

"Rs. 60·00 per tonne plus 5 per cent. *ad valorem*";

(xviii) in Item No. 63(20),—

(1) for the entry in the fourth column against sub-item (a)(1)(i), the following entry shall be substituted, namely:—

"Rs. 29·00 per tonne or 10 per cent. *ad valorem*, whichever is higher, plus 5 per cent. *ad valorem*";

(2) for the entry in the fourth column against sub-item (a)(1)(ii), the following entry shall be substituted, namely:—

"Rs. 50·00 per tonne plus 5 per cent. *ad valorem*";

(3) for the entry in the fourth column against sub-item (a)(2)(i), the following entry shall be substituted, namely:—

"Rs. 30·00 per tonne or 10 per cent. *ad valorem*, whichever is higher, plus 5 per cent. *ad valorem*";

(4) for the entry in the fourth column against sub-item (a)(2)(ii), the following entry shall be substituted, namely:—

"Rs. 60·00 per tonne plus 5 per cent. *ad valorem*";

(5) for the entry in the fourth column against sub-item (b)(1)(i), the following entry shall be substituted, namely:—

"Rs. 32·00 per tonne or 10 per cent. *ad valorem*, whichever is higher, plus 5 per cent. *ad valorem*";

(6) for the entry in the fourth column against sub-item (b)(1)(ii), the following entry shall be substituted, namely:—

"Rs. 55·00 per tonne plus 5 per cent. *ad valorem*";

(7) for the entry in the fourth column against sub-item

(b)(2)(i), the following entry shall be substituted, namely:—

“Rs. 32·00 per tonne or 10 per cent. *ad valorem*, whichever is higher, *plus 5 per cent. ad valorem*”;

(8) for the entry in the fourth column against sub-item (b)(2)(ii), the following entry shall be substituted, namely:—

“Rs. 64·00 per tonne *plus 5 per cent. ad valorem*”;

(xix) in Item No. 63(21)A,—

(1) for the entry in the fourth column against sub-item (a)(i), the following entry shall be substituted, namely:—

“Rs. 10·00 per tonne or 15 per cent. *ad valorem*, whichever is higher”;

(2) for the entry in the fourth column against sub-item (a)(ii), the following entry shall be substituted, namely:—

“Rs. 10·00 per tonne or 25 per cent. *ad valorem*, whichever is higher”;

(3) for the entry in the fourth column against sub-item (b)(i), the following entry shall be substituted, namely:—

“Rs. 31·00 per tonne or 10 per cent. *ad valorem*, whichever is higher”;

(4) for the entry in the fourth column against sub-item (b)(ii), the following entry shall be substituted, namely:—

“Rs. 60·00 per tonne *plus 5 per cent. ad valorem*”;

(xx) in Item No. 63(24), for the figures “55” and “45” in the fourth and fifth columns, the figures “60” and “50” shall, respectively, be substituted;

(xxi) in Item No. 63(25),—

(1) for the entry in the fourth column against sub-item (i), the following entry shall be substituted, namely:—

“30 per cent. *ad valorem*.”;

(2) for the entry in the fourth column against sub-item (ii), the following entry shall be substituted, namely:—

“30 per cent. *ad valorem plus Rs. 35·00 per tonne*”;

(xxii) in Item No. 63(28), for the figures “55” in the fourth column, the figures “60” shall be substituted;

(xxiii) in Item No. 63(31),—

(1) for the entry in the fourth column against sub-item (a), the following entry shall be substituted, namely:—

“Rs. 29·00 per tonne or 10 per cent. *ad valorem*, whichever is higher, *plus 5 per cent. ad valorem*”;

(2) for the entry in the fourth column against sub-item

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

“Rs. 50.00 per tonne plus 5 per cent. *ad valorem*”;

(xxiv) in Item No. 63(32),—

(1) for the entry in the fourth column against sub-item

(a), the following entry shall be substituted, namely:—

“Rs. 50.00 per tonne plus 5 per cent. *ad valorem*”;

(2) for the entry in the fourth column against sub-item
(b), the following entry shall be substituted, namely:—

“Rs. 84.00 per tonne plus 5 per cent. *ad valorem*”;

(xxv) in Item No. 71,—

(1) for the entry in the fourth column against sub-item
(a), the following entry shall be substituted, namely:—

“60 per cent. *ad valorem*”;

(2) for the entry in the fourth column against sub-item
(b), the following entry shall be substituted, namely:—

“100 per cent. *ad valorem*”.

(xxvi) in Items Nos. 72, 72(1), 72(2) and 72(3), for the entry
against each of them in the fourth column, the entry “20 per
cent. *ad valorem*” shall be substituted;

(xxvii) in Item No. 75, for the figures “35” in the fourth
column, the figures “50” shall be substituted;

(xxviii) in Items Nos. 75(11) and 75(12), for the figures “25”
against each of them in the fourth column, the figures “50” shall
be substituted; and

(xxix) in Item No. 87, for the figures “50” in the fourth
column, the figures “60” shall be substituted.

THE SUPER PROFITS TAX ACT, 1963

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title and extent.
2. Definitions.
3. Tax authorities.
4. Charge of tax.
5. Relief on occurrence of deficiency.
6. Return of chargeable profits.
7. Assessments.
8. Provisional assessments.
9. Profits escaping assessment.
10. Penalties.
11. Opportunity of being heard.
12. Appeals to the Appellate Assistant Commissioner.
13. Appeals to Appellate Tribunal.
14. Rectification of mistakes.
15. Other amendments.
16. Super profits tax deductible in computing distributable income under Act 43 of 1961.
17. Revision of orders prejudicial to revenue.
18. Revision of orders by Commissioner.
19. Application of provisions of Act 43 of 1961.
20. Income-tax papers to be available for the purposes of this Act.
21. Failure to deliver returns, etc.
22. False statements.
23. Abetment of false returns, etc.
24. Institution of proceedings and composition of offences.
25. Power to make exemption, etc., in relation to certain Union territories.

SECTIONS

26. Power to make rules.
27. Saving.

THE FIRST SCHEDULE.—RULES FOR COMPUTING THE CHARGEABLE PROFITS.

THE SECOND SCHEDULE.—RULES FOR COMPUTING THE CAPITAL OF A COMPANY FOR THE PURPOSES OF SUPER PROFITS TAX.

THE THIRD SCHEDULE.—RATES OF SUPER PROFITS TAX.

THE SUPER PROFITS TAX ACT, 1963

No. 14 OF 1963

[4th May, 1963]

An Act to impose a special tax on certain companies.

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

**Short title
and extent.**

1. (1) This Act may be called the Super Profits Tax Act, 1963.
- (2) It extends to the whole of India.

Definitions.

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

(1) "assessee" means a person by whom super profits tax or any other sum of money is payable under this Act and includes every person in respect of whom any proceeding under this Act has been taken for the assessment of his chargeable profits or of the amount of refund due to him or of the chargeable profits of any other person in respect of which he is assessable or of the amount of refund due to such other person;

(2) "assessment" includes re-assessment;

(3) "assessment year" means the period of twelve months commencing on the 1st day of April, every year;

(4) "Board" means the Central Board of Revenue constituted under the Central Boards of Revenue Act, 1924; ^{Direct Taxes} [1963]; ^{54 of 1963}

(5) "chargeable profits" means the total income of an assessee computed under the Income-tax Act, 1961 for any previous year or years, as the case may be, and adjusted in accordance with the provisions of the First Schedule;

9 subs by Act 54 of 1963, ¹³⁴ s. 5 (1) (w.e.f. 1-1-1964)

43 of 1961.

(6) "deficiency" in relation to an assessment year means

(i) where there are chargeable profits in respect of the previous year relevant to that assessment year, the amount by which such profits as increased by the sum excluded under clause (xi) or clause (xii), as the case may be, of rule 1 of the First Schedule fall short of the standard deduction;

(ii) where there are no chargeable profits in respect of the previous year relevant to that assessment year, the amount of the standard deduction;

3 of 1961

(7) "Income-tax Act" means the Income-tax Act, 1961;

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

(9) "standard deduction" means an amount equal to six per cent. of the capital of the company as computed in accordance with the provisions of the Second Schedule, or an amount of fifty thousand rupees, whichever is greater:

Provided that where the previous year is longer or shorter than a period of twelve months, the aforesaid amount of six per cent. or, as the case may be, of fifty thousand rupees shall be increased or decreased proportionately:

Provided further that where a company has different previous years in respect of its income, profits and gains, the aforesaid increase or decrease, as the case may be, shall be calculated with reference to the length of the previous year of the longest duration; and

(10) all other words and expressions used herein but not defined and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

3. (1) Every Director of Inspection, Commissioner of Income-tax, Appellate Assistant Commissioner of Income-tax, Inspecting Assistant Commissioner of Income-tax and Income-tax Officer shall have the like powers and perform the like functions, under this Act as he has and performs, under the Income-tax Act, and for the exercise of his powers and the performance of his functions, his jurisdiction under this Act will be the same as that he has under the Income-tax Act.

Tax authorities.

(2) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Board:

Provided that no such orders, instructions or directions shall be

given so as to interfere with the discretion of the Appellate Assistant Commissioner in the exercise of his appellate functions.

(3) Every Income-tax Officer, employed in the execution of this Act, shall observe and follow the orders, instructions and directions issued for his guidance by the Director of Inspection or by the Commissioner or by the Inspecting Assistant Commissioner under whose jurisdiction he performs his functions.

Charge of tax.

4. Subject to the provisions contained in this Act, there shall be charged on every company for every assessment year commencing on and from the 1st day of April, 1963, a tax (in this Act referred to as the super profits tax) in respect of so much of its chargeable profits of the previous year or previous years, as the case may be, as exceed the standard deduction, at the rate or rates specified in the Third Schedule.

Relief on occurrence of deficiency.

5. Where there is a deficiency in relation to any assessment year, the assessee shall be entitled to relief in accordance with the following provisions, namely,—

(i) the amount of the deficiency shall be carried forward and set off against the net chargeable profits of the assessee assessable for the next following assessment year and, if there are no net chargeable profits for that year or the amount of the deficiency exceeds the net chargeable profits for that year, the whole or the balance of the deficiency, as the case may be, shall be set off against the net chargeable profits of the assessee for the next following assessment year and if and so far as such deficiency cannot be wholly so set off, it shall be set off against the net chargeable profits of the assessee for the next following assessment year;

(ii) in no case shall the deficiency or any part thereof be carried forward beyond three assessment years immediately following the assessment year to which the deficiency relates;

(iii) where there is more than one deficiency and each such deficiency relates to a different assessment year, the deficiency which relates to an earlier assessment year shall be set off under clause (i) before setting off the deficiency relating to a later assessment year.

Explanation.—In this section and sub-section (1) of section 8, “net chargeable profits” means the amount by which the chargeable profits exceed the standard deduction.

6. (1) In the case of every company whose chargeable profits assessable under this Act exceeded during the previous year the amount of standard deduction, its principal officer, or where in the case of a non-resident company any person has been treated as its agent under section 163 of the Income-tax Act, such person shall furnish a return of the chargeable profits of the company during the previous year and of the amount of any deficiency available for being set off against such profits under the provisions of this Act, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, before the 30th day of September of the assessment year:

Provided that on an application made in this behalf, the Income-tax Officer may, in his discretion, extend the date for the furnishing of the return.

(2) In the case of any company which in the Income-tax Officer's opinion is assessable under this Act, the Income-tax Officer may, before the end of the relevant assessment year, serve a notice upon its principal officer, or where in the case of a non-resident company any person has been treated as its agent under section 163 of the Income-tax Act, upon such person, requiring him to furnish within thirty days from the date of service of the notice a return of the chargeable profits of the company during the previous year and of the amount of any deficiency available for being set off against such profits under the provisions of this Act, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed:

Provided that on an application made in this behalf, the Income-tax Officer may, in his discretion, extend the date for the furnishing of the return.

(3) Any assessee who has not furnished a return during the time allowed by the Income-tax Officer under sub-section (1) or sub-section (2), or having furnished a return under sub-section (1) or sub-section (2) discovers any omission or wrong statement therein, may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

7. (1) For the purposes of making an assessment under this Act, the Income-tax Officer may serve on any person who has made a return under sub-section (1) of section 6 or upon whom a notice has been served under sub-section (2) of section 6 (whether a return has been made or not) a notice requiring him on a date therein to be specified, to produce or cause to be produced such accounts or documents or evidence as the Income-tax Officer may require for the purposes of this Act and may from time to time serve further notices requiring the production of such further accounts or documents or other evidence as he may require.

(2) The Income-tax Officer, after considering such accounts, documents or evidence, if any, as he has obtained under sub-section (1) and after taking into account any relevant material which he has gathered, shall, by an order in writing, assess the chargeable profits and the amount of the super profits tax payable on the basis of such assessment or, if there is a deficiency, the amount of that deficiency.

**Provi-
sional
assess-
ments.**

8. (1) The Income-tax Officer, before proceeding to make an assessment under section 7 (in this section referred to as the regular assessment) may, at any time after the expiry of the period allowed under sub-section (1) or sub-section (2) of section 6 for the furnishing of the return and whether the return has or has not been furnished, proceed to make in a summary manner a provisional assessment of the chargeable profits and the amount of the super profits tax payable thereon:

Provided that in making any such provisional assessment, the Income-tax Officer shall make allowance for any deficiency in relation to any earlier assessment year which under the provisions of this Act is to be set off against the net chargeable profits for the assessment year in respect of which the provisional assessment is being made, and where such deficiency has not been assessed under the provisions of sub-section (2) of section 7, he shall estimate the amount thereof to the best of his judgement.

(2) Before making such provisional assessment, the Income-tax Officer shall give notice in the prescribed form to the person on whom the provisional assessment is to be made of his intention to do so, and shall with the notice forward a statement of the amount of the proposed assessment, and the said person shall be entitled to deliver to the Income-tax Officer at any time within fourteen days of the service of the said notice a statement of his objections, if any, to the amount of the proposed assessment.

(3) On expiry of the said fourteen days from the date of service of the notice referred to in sub-section (2), or earlier, if the assessee agrees to the proposed provisional assessment, the Income-tax Officer may, after taking into account the objections, if any, made under sub-section (2), make a provisional assessment, and shall furnish a copy of the order of the assessment to the assessee:

Provided that assent to the amount of the provisional assessment, or failure to make objection to it, shall in no way prejudice the assessee in relation to the regular assessment.

(4) There shall be no right of appeal against a provisional assessment made under this section.

(5) After a regular assessment has been made, any amount paid or deemed to have been paid towards the provisional assessment made under this section shall be deemed to have been paid towards the regular assessment; and where the amount paid or deemed to have been paid towards the provisional assessment exceeds the amount payable under the regular assessment, the excess shall be refunded to the assessee.

9. If—

(a) the Income-tax Officer has reason to believe that by reason of the omission or failure on the part of the assessee to make a return under section 6 for any assessment year or to disclose fully and truly all material facts necessary for his assessment for any assessment year, chargeable profits for that year have escaped assessment or have been under-assessed or assessed at too low a rate or have been made the subject of excessive relief under this Act, or

(b) notwithstanding that there has been no omission or failure as mentioned in clause (a) above on the part of the assessee, the Income-tax Officer has in consequence of information in his possession reason to believe that chargeable profits assessable for any assessment year have escaped assessment or have been under-assessed or assessed at too low a rate or have been the subject of excessive relief under this Act,

he may, in cases falling under clause (a) at any time, and in cases falling under clause (b) at any time within four years of the end of that assessment year, serve on the assessee a notice containing all or any of the requirements which may be included in a notice under section 6, and may proceed to assess or re-assess the amount chargeable to super profits tax, and the provisions of this Act shall, so far as may be, apply as if the notice were a notice issued under that section.

10. If the Income-tax Officer, in the course of any proceedings under this Act, is satisfied that any person has, without reasonable cause, failed to furnish the return required under section 6, or to produce or cause to be produced the documents, accounts or other evidence required by the Income-tax Officer under sub-section (1) of section 7, or has concealed the particulars of the chargeable profits or has deliberately furnished inaccurate particulars of such profits, he may direct that such person shall pay, by way of penalty, in addition to the amount of super profits tax payable, a sum not exceeding—

(a) where the person has failed to furnish the return required under section 6, the amount of super profits tax payable;

(b) in any other case, the amount of super profits tax which would have been avoided if the return made had been accepted as correct:

Provided that the Income-tax Officer shall not impose any penalty under this section without the previous authority of the Inspecting Assistant Commissioner.

Opportunity of being heard.

Appeals to the Appellate Assistant Commissioner.

11. No order imposing a penalty under section 10 shall be made unless the assessee has been given a reasonable opportunity of being heard.

12. (1) Any person objecting to the amount of super profits tax for which he is liable as assessed by the Income-tax Officer or denying his liability to be assessed under this Act, or objecting to any penalty or fine imposed by the Income-tax Officer, or to the amount of any deficiency as assessed by the Income-tax Officer, or to the amount allowed by the Income-tax Officer by way of any relief under any provisions of this Act, or to any refusal by the Income-tax Officer to grant relief or to an order of rectification or amendment having the effect of enhancing the assessment or reducing the refund, or to an order refusing to allow the claim made by the assessee for a rectification under section 14 or amendment under section 15 may appeal to the Appellate Assistant Commissioner.

(2) Every appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(3) An appeal shall be presented within thirty days of the following date, that is to say—

(a) where the appeal relates to assessment or penalty or fine, the date of service of the notice of demand relating to the assessment or penalty or fine, or

(b) in any other case, the date on which the intimation of the order sought to be appealed against is served:

Provided that the Appellate Assistant Commissioner may admit an appeal after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(4) The Appellate Assistant Commissioner shall hear and determine the appeal and, subject to the provisions of this Act, pass such orders as he thinks fit and such orders may include an order enhancing the assessment or a penalty:

Provided that an order enhancing an assessment or a penalty shall not be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(5) The procedure to be adopted in the hearing and determination of the appeals shall, with any necessary modification, be in accordance with the procedure applicable in relation to income-tax.

13. (1) Any assessee aggrieved by an order passed by a Commissioner under section 17, or an order passed by an Appellate Assistant Commissioner under any provisions of this Act, may appeal to the Appellate Tribunal against such order.

(2) The Commissioner may, if he objects to any order passed by the Appellate Assistant Commissioner under any provisions of this Act, direct the Income-tax Officer to appeal to the Appellate Tribunal against the order.

(3) Every appeal under sub-section (1) or sub-section (2) shall be filed within sixty days of the date on which the order sought to be appealed against is communicated to the assessee or to the Commissioner, as the case may be.

(4) The Income-tax Officer or the assessee, as the case may be, on receipt of notice that an appeal against the order of the Appellate Assistant Commissioner has been preferred under sub-section (1) or sub-section (2) by the other party may, notwithstanding that he may not have appealed against such order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Appellate Assistant Commissioner, and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3).

(5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (3) or sub-section (4), if it is satisfied that there was sufficient cause for not presenting it within that period.

(6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and, shall, except in the case of an appeal referred to in sub-section (2) or a memorandum of cross-objections referred to in sub-section (4), be accompanied by a fee of rupees one hundred.

(7) Subject to the provisions of this Act, in hearing and making an order on any appeal under this section, the Appellate Tribunal shall exercise the same powers and follow the same procedure as it

exercises and follows in hearing and making an order on any appeal under the Income-tax Act.

Rectification of mistakes.

14. (1) With a view to rectifying any mistake apparent from the record, the Commissioner, the Income-tax Officer, the Appellate Assistant Commissioner and the Appellate Tribunal may, of his, or its, own motion or on an application by the assessee in this behalf, amend any order passed by him or it in any proceeding under this Act within four years of the date on which such order was passed.

(2) An amendment which has the effect of enhancing the assessment or reducing a refund or otherwise increasing the liability of the assessee shall not be made under this section unless the authority concerned has given notice to the assessee of its intention so to do and has allowed the assessee a reasonable opportunity of being heard.

(3) Where an amendment is made under this section, the order shall be passed in writing by the authority concerned.

(4) Subject to the other provisions of this Act, where any such amendment has the effect of reducing the assessment, the Income-tax Officer shall make any refund which may be due to such assessee.

(5) Where any such amendment has the effect of enhancing the assessment or reducing the refund already made, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable.

Other amendments.

15. (1) Where as a result of any order made under section 154 or section 155 of the Income-tax Act, it is necessary to recompute the chargeable profits determined in any assessment under this Act, the Income-tax Officer may proceed to recompute the chargeable profits, and determine the super profits tax payable or refundable on the basis of such recomputation and make the necessary amendment and the provisions of section 14 shall, so far as may be, apply thereto, the period of four years specified in sub-section (1) of that section being reckoned from the date of the order passed under the aforesaid sections of the Income-tax Act.

(2) Where at any time before the expiry of the five years referred to in sub-clause (ii) of the proviso to clause (xi) of rule 1 of the First Schedule, a company utilises the amount credited by it to the special reserve account under that sub-clause for a purpose other than—

(a) repayment of any moneys borrowed or debt incurred by it for acquisition of capital assets; or

(b) acquisition of capital assets in India for the purposes of its business; or

(c) payment of dividends on its preference share capital of any sum exceeding six per cent. of such capital,

the exclusion of ten per cent. of the amount of total income originally made under clause (xi) of rule 1 of the First Schedule in computing the chargeable profits of the company shall be deemed to have been wrongly made and the Income-tax Officer may, notwithstanding anything contained in this Act, recompute the chargeable profits of the assessee for the relevant previous year and make the necessary amendment, and the provisions of section 14 shall, so far as may be, apply thereto, the period of four years specified in sub-section (1) of that section being reckoned from the end of the previous year in which the amount was so utilised.

16. Notwithstanding anything contained in clause (i) of section 109 of the Income-tax Act, in computing the distributable income of a company for the purposes of sections 104 and 105 of that Act, the super profits tax payable by the company for any assessment year shall be deductible from the total income of the company for that assessment year.

Super profits tax deductible in computing distributable income under Act 43 of 1961.

17. (1) The Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by the Income-tax Officer is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment.

Revision of orders prejudicial to revenue.

(2) No order shall be made under sub-section (1)—

(a) to revise an order of re-assessment made under section 9, or

(b) after the expiry of two years from the date of the order sought to be revised.

(3) Notwithstanding anything contained in sub-section (2), an order in revision under this section may be passed at any time in the case of an order which has been passed in consequence of, or to give effect to, any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court.

Explanation.—In computing the period of limitation for the purposes of sub-section (2), any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

Revision of
orders by
Commissioner.

18. (1) The Commissioner may, either of his own motion or on an application by the assessee for revision, call for the record of any proceeding under this Act which has been taken by an Income-tax Officer or Appellate Assistant Commissioner subordinate to him and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such orders thereon, not being an order prejudicial to the assessee, as he thinks fit.

(2) The Commissioner shall not of his own motion revise any order under this section if the order has been made more than one year previously.

(3) In the case of an application for revision under this section by the assessee, the application shall be made within one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier:

Provided that the Commissioner may, if he is satisfied that the assessee was prevented by sufficient cause from making the application within that period, admit an application made after the expiry of that period.

(4) The Commissioner shall not revise any order under this section in the following cases—

(a) where an appeal against the order lies to the Appellate Assistant Commissioner or to the Appellate Tribunal but has not been made and the time within which such appeal may be made has not expired, or, in the case of an appeal to the Appellate Tribunal, the assessee has not waived his right of appeal; or

(b) where the order is pending on an appeal before the Appellate Assistant Commissioner; or

(c) where the order has been made the subject of an appeal to the Appellate Tribunal.

(5) Every application by an assessee for revision under this section shall be accompanied by a fee of twenty-five rupees.

Explanation 1.—An order by the Commissioner declining to interfere shall, for the purposes of this section, be deemed not to be an order prejudicial to the assessee.

Explanation 2.—For the purposes of this section, the Appellate Assistant Commissioner shall be deemed to be an authority subordinate to the Commissioner.

19. The provisions of the following sections and Schedules of the Application of provisions of Income-tax Act shall apply with such modifications, if any, as may be prescribed, as if the said provisions were provisions of this Act and referred to super profits tax instead of to income-tax and super-tax:—

2(44), 131 to 138 (both inclusive), 140, 156, 160, 161, 162, 163, 166, 167, 170, 173, 175, 176, 178, 179, 220 to 229 (both inclusive), 231, 232, 233, 237 to 245 (both inclusive), 254 to 262 (both inclusive), 265 to 269 (both inclusive), 281, 282, 284, 286 to 293 (both inclusive), the Second Schedule and the Third Schedule:

Provided that references in the said provisions to the "assessee" shall be construed as references to an assessee as defined in this Act.

20. (1) Notwithstanding anything contained in the Income-tax Act, all information contained in any statement or return made or furnished under the provisions of that Act or obtained or collected for the purposes of that Act may be used for the purposes of this Act.

(2) All information contained in any statement or return made or furnished under the provisions of this Act or obtained or collected for the purposes of this Act may be used for the purposes of the Income-tax Act.

21. If any person fails without reasonable cause to furnish in due time any return under sub-section (2) of section 6 or to produce, or cause to be produced, any accounts or documents required to be produced under section 7, he shall be punishable with fine which may extend to five hundred rupees, and with a further fine which may extend to ten rupees for every day during which the default continues.

22. If a person makes in any return required under section 6, any statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with simple imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

23. If a person makes or induces in any manner another person to make and deliver any account, statement or declaration relating to chargeable profits liable to super profits tax which is false and which he either knows to be false or does not believe to be true, he shall be punishable with simple imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Institution
of proceed-
ings and
composi-
tion of
offences.

24. (1) A person shall not be proceeded against for an offence under section 21 or section 22 or section 23 or under the Indian Penal Code except at the instance of the Commissioner.

45 of 1860.

(2) The Commissioner may, either before or after the institution of proceedings, compound any offence punishable under section 21 or section 22 or section 23.

Power to
make
exemption,
etc., in
relation to
certain
Union
territories.

25. If the Central Government considers it necessary or expedient so to do for avoiding any hardship or anomaly or removing any difficulty that may arise as a result of the application of this Act, to the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu and Pondicherry, the Central Government may, by general or special order, make an exemption, reduction in rate or other modification in respect of super profits tax in favour of any class of assessee or in regard to the whole or any part of the chargeable profits of any class of assessee.

Power
to make
rules:

26. (1) The Board may, subject to the control of the Central Government, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

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

(a) the form in which returns under section 6 may be furnished and the manner in which they may be verified;

(b) the form in which notice for making provisional assessment shall be given;

(c) the form in which appeals under section 12 or section 13 may be filed and the manner in which they shall be verified;

(d) the procedure to be followed on applications for rectification of mistakes and applications for refunds;

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

(3) The Central Government shall cause every rule made under this section to be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions, and, if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, that rule shall thereafter have effect only in such

modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

27. Nothing contained in this Act shall apply to any company Saving which has no share capital.

THE FIRST SCHEDULE

[See section 2(5)]

RULES FOR COMPUTING THE CHARGEABLE PROFITS

In computing the chargeable profits of a previous year, the total income computed for that year under the Income-tax Act shall be adjusted as follows:—

1. Income, profits and gains and other sums falling within the following clauses shall be excluded from such total income, namely:—

- (i) any income chargeable under the Income-tax Act under the head "Capital gains";
- (ii) any compensation or other payment as is referred to in clause (ii) of section 28 of the Income-tax Act;
- (iii) profits of any business of life insurance;
- (iv) any income referred to in sub-section (2) of section 41 of the Income-tax Act;
- (v) the amount of profits and gains derived from an industrial undertaking or hotel, on which under section 84 of the Income-tax Act income-tax is not payable;
- (vi) income chargeable under the Income-tax Act under the head "Interest on securities" derived from any security of the Central Government issued or declared to be income-tax free or from any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government;
- (vii) any sum in respect of which a deduction of income-tax is allowed under the provisions of section 88 of the Income-tax Act;
- (viii) income by way of dividends from an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends within India;
- (ix) income by way of royalties received from Government, or a local authority, or any Indian concern;

(x) in the case of a non-resident company which has not made the prescribed arrangements for the declaration and payment of dividends within India, its income by way of any interest or fees for rendering technical services received from Government or a local authority or any Indian concern;

(xi) in the case of a company not being a banking company, a sum equal to ten per cent. of the amount of total income computed under the Income-tax Act, as reduced by the amounts referred to in clause (i) or clause (ii) or clause (iii):

Provided that in the case of a company not being a banking company and not being a licensee within the meaning of the Electricity (Supply) Act, 1948, either—**54 of 19**

(i) an equivalent amount is spent during the previous year on the repayment of any moneys borrowed or debt incurred by it for acquisition of capital assets, or on acquisition of any capital assets in India for the purposes of its business, or on the payment of dividends on its preference share capital of any sum exceeding six per cent. of such capital; or

(ii) in so far as the amount, if any, spent during the previous year on the purposes aforesaid falls short of the said ten per cent. of the total income so reduced, a sum equal to the amount so fallen short is debited by the company to its profit and loss account of the relevant previous year and credited to a special reserve account to be utilized by it during a period of five years next following only for one or more of the purposes specified in sub-clause (i) of this proviso.

Explanation 1.—If any amount credited to the special reserve account referred to in sub-clause (ii) of the proviso is utilized for any purposes other than the purposes specified in sub-clause (i) of the proviso, the exclusion referred to in this clause shall be deemed to have been wrongly made for the purposes of this Act and the provisions of sub-section (2) of section 15 shall apply accordingly.

Explanation 2.—The proviso shall not apply in making any assessment under this Act for the assessment year commencing on the 1st day of April, 1963;

10 of 1949.

(xii) in the case of a banking company—

(a) any sum which during the previous year is transferred by it to a reserve fund under sub-section (1) of section 17 of the Banking Companies Act, 1949 or is deposited by it with the Reserve Bank of India under sub-clause (ii) of clause (b) of sub-section (2) of section 11 of that Act, not exceeding the amount required under the aforesaid provisions to be so transferred or deposited, as the case may be, or

(b) any sum transferred by it during the previous year to any reserves in India including reserves not shown as such in its published balance sheet in so far as the sums transferred to such reserves are attributable to income chargeable to tax under the Income-tax Act and have not been allowed as a deduction in computing its total income under that Act and in so far as the aggregate of such sums does not exceed the highest of the aggregate of such sums, if any, so transferred during any one of the three years prior to the previous year, whichever is higher;

(xiii) the amount of any deduction from the income-tax and super-tax chargeable on the total income allowed under the annual Finance Act in connection with export of any goods or merchandise out of India or the sale by a manufacturer of any articles to any person who exports them out of India.

2. The balance of the total income arrived at after making the exclusions mentioned in rule 1, shall be reduced by—

(i) the amount of income-tax and super-tax payable by the company in respect of its total income under the provisions of the Income-tax Act after making allowance for any relief, rebate or deduction in respect of income-tax and super-tax to which the company may be entitled under the provisions of the said Act or the annual Finance Act, and after excluding from such amount—

(a) the amount of income-tax and super-tax payable by the company in respect of the profits and gains of any business of life insurance included in the total income;

(b) the amount of income-tax and super-tax payable by the company under the Income-tax Act in respect of any income by way of compensation or other

payment referred to in clause (ii) of section 28 of that Act included in the total income;

(c) the amount of income-tax and super-tax payable on any income chargeable under the head "Capital gains" under the Income-tax Act, included in the total income;

(ii) in the case of a company which has been charged to tax in a country outside India on any portion of its income, profits and gains included in its total income as computed under the Income-tax Act, the tax actually paid in respect of such income in the said country in accordance with the laws in force in that country after allowance of every relief due under the said laws:

Provided that the aforesaid reduction shall not be allowed unless the assessee produces evidence of the fact of the payment of the aforesaid tax in that country.

3. The net amount of income calculated in accordance with rule 2 shall be increased by any expenditure incurred on account of commission, entertainment and advertisement, to the extent such expenditure, in the opinion of the Income-tax Officer, is excessive having regard to the circumstances of the case:

Provided that the previous authority of the Inspecting Assistant Commissioner is obtained for holding such expenditure to be excessive.

THE SECOND SCHEDULE

[See section 2(9)]

RULES FOR COMPUTING THE CAPITAL OF A COMPANY FOR THE PURPOSES OF SUPER PROFITS TAX

1. Subject to the other provisions contained in this Schedule, the capital of a company shall be the sum of the amounts, as on the first day of the previous year relevant to the assessment year, of its paid up share capital and of its reserve, if any, created under the proviso (b) to clause (vib) of sub-section (2) of section 10 of the Indian Income-tax Act, 1922 or under sub-section (3) of section 34 of the Indian Income-tax Act, 1961, and of its other reserves in so far as the amounts credited to such other reserves have not been allowed in computing its profits for the purposes of the Indian Income-tax Act, 1922 or the Income-tax Act, 1961 diminished by the amount by which the cost to it of the assets the income from which in accordance with clause (iii) or clause (vi) or clause (viii) of rule 1 of the First

11 of 1922.

43 of 1961

Schedule is not includable in its chargeable profits, exceeds the aggregate of—

- (i) any money borrowed by it which remains outstanding; and
- (ii) the amount of any fund, any surplus and any such reserve as is not to be taken into account in computing the capital under this rule.

Explanation 1.—A paid up share capital or reserve brought into existence by creating or increasing (by revaluation or otherwise) any book asset is not capital for computing the capital of a company for the purposes of this Act.

Explanation 2.—Any premium received in cash by the company on the issue of its shares standing to the credit of the share premium account shall be regarded as forming part of its paid up share capital.

Explanation 3.—Where a company has different previous years in respect of its income, profits and gains, the computation of capital under rule 1 and rule 2 of this Schedule shall be made with reference to the previous year which commenced first.

2. Where after the first day of the previous year relevant to the assessment year, the paid up share capital of a company is increased or reduced by any amount during that previous year, the capital computed in accordance with rule 1 shall be increased or decreased, as the case may be, by a portion of that amount which is proportional to the portion of the previous year during which the increase or the reduction of the paid up share capital remained effective.

3. Where a part of the income, profits and gains of a company is not includable in its total income as computed under the Income-tax Act, its capital shall be the sum ascertained in accordance with rules 1 and 2, diminished by an amount which bears to that sum the same proportion as the amount of the aforesaid income, profits and gains bears to the total amount of its income, profits and gains.

THE THIRD SCHEDULE

(See section 4)

RATES OF SUPER PROFITS TAX

Super profits tax shall be charged on the amount by which the chargeable profits exceed the amount of the standard deduction, at the following rates, namely:—

- | | |
|--|------|
| (i) on an amount not exceeding four per cent. of the amount of capital as computed in accordance with the Second Schedule; | 50% |
| (ii) on the balance | 60%. |

Rep. by Act 56 of 1974, s. 2 & Sch I

THE BENGAL FINANCE (SALES TAX) (DELHI
AMENDMENT) ACT, 1963

No. 15 OF 1963

[4th May, 1963]

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

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

Short title
and com-
mence-
ment.

1. (1) This Act may be called the Bengal Finance (Sales Tax) (Delhi Amendment) Act, 1963.

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

Amend-
ment of
section 5.

2. In section 5 of the Bengal Finance (Sales Tax) Act, 1941, as in force in the Union territory of Delhi, in sub-section (1),—

(i) in clause (a), for the words "seven naya paise", the words "ten naye paise" shall be substituted; and

(ii) in clause (c), for the words "four naya paise", the words "five naye paise" shall be substituted.

¹ 1-6-63, vide Notification No. F. 4(17)/63-Fin. (E)(i), dated 31-5-63, see Delhi Gazette, Extraordinary, Pt. IV, p. 309.

THE APPROPRIATION (RAILWAYS) No. 3 ACT, 1963

No. 16 OF 1963

[10th May, 1963]

An Act to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services for the purposes of Railways during the financial year ended on the 31st day of March, 1961, in excess of the amounts granted for those services and for that year.

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

1. This Act may be called the Appropriation (Railways) No. 3 Short title. Act, 1963.

2. From and out of the Consolidated Fund of India, the sums specified in column 3 of the Schedule amounting in the aggregate to the sum of thirteen crores, sixty-one lakhs, ten thousand, five hundred and forty-three rupees shall be deemed to have been authorised to be paid and applied to meet the amount spent for defraying the charges in respect of the services relating to railways specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 1961, in excess of the amounts granted for those services and for that year.

Issue of Rs.
13,61,10,543
out of the
Consolidat-
ed Fund of
India to
meet cer-
tain ex-
penditure
for the
year
ended on
the 31st
March, 1961.

3. The sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of India under this Act shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 1961.

Appropria-
tion.

THE SCHEDULE

(See sections 2 and 3)

No. of Vote	Services and purposes	Sums aggregating to		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
2	Revenue—Miscellaneous Expenditure .	..	497	497
5	Revenue—Working Expenses—Re- pairs and Maintenance	14,257	14,257
13	Open Line Works—Revenue—Labour Welfare	6,146	6,146
14	Open Line Works—Revenue—Other than Labour Welfare	1,388	1,388
15	Construction of New Lines	1,69,525	1,69,525
18	Open Line Works—Development Fund	28,570	28,570
20	Appropriation to Development Fund ..	13,58,90,160	..	13,58,90,160
TOTAL		13,58,90,160	2,20,383	13,61,10,543

THE APPROPRIATION (RAILWAYS) NO. 4 ACT, 1963

NO. 17 OF 1963

[10th May, 1963]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the service of the financial year 1963-64 for the purposes of Railways.

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

1. This Act may be called the Appropriation (Railways) No. 4 Short title.
Act, 1963.
2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of two crores, sixty-three lakhs and thirty-one thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1963-64, in respect of the services relating to railways specified in column 2 of the Schedule. Issue of
Rs.
2,63,31,000
out of the
Consolidated
Fund of
India for
the finan-
cial year
1963-64.
3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year. Appro-
priation.

THE SCHEDULE

(See sections 2 and 3)

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
2	Miscellaneous Expenditure . . .	10,00,000	..	10,00,000
4	Working Expenses—Administration . . .	1,000	..	1,000
7	Working Expenses—Operation (Fuel) . . .	2,33,30,000	..	2,33,30,000
14	Construction of New Lines . . .	20,00,000	..	20,00,000
TOTAL		2,63,31,000	..	2,63,31,000

THE APPROPRIATION (No. 3) ACT, 1963
No. 18 OF 1963

[10th May, 1963]

An Act to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services during the financial year ended on the 31st day of March, 1961, in excess of the amounts granted for those services and for that year.

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

1. This Act may be called the Appropriation (No. 3) Act, 1963. Short title.

2. From and out of the Consolidated Fund of India, the sums specified in column 3 of the Schedule amounting in the aggregate to the sum of six crores, ninety-five lakhs, seven hundred and seventeen rupees shall be deemed to have been authorised to be paid and applied to meet the amount spent for defraying the charges in respect of the services specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 1961, in excess of the amounts granted for those services and for that year.

Issue of Rs.
6,95,00,717
out of the
Consolidated
Fund of
India to
meet
certain
excess
expen-
diture
for the
year
ended on
the 31st
March,
1961.

3. The sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of India under this Act shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 1961.

THE SCHEDULE

(See sections 2 and 3)

No. of Vote	Services and purposes	Excess		
		Voted portion	Charged portion	Total
		Rs.	Rs.	Rs.
17	Naga Hills—Tuensang Area	7,09,126	..	7,09,126
24	Taxes on Income, etc.	1,15,528	..	1,15,528
46	Cabinet	2,05,819	..	2,05,819
56	Manipur	3,06,869	..	3,06,869
66	Ministry of Labour and Employment	53,222	..	53,222
82	Miscellaneous Departments and Other Expenditure under the Ministry of Steel, Mines and Fuel	1,72,00,220	..	1,72,00,220
83	Posts and Telegraphs Dividend to General Revenues and Appropriations to Reserve Funds	77,40,659	..	77,40,659
87	Lighthouses and Lightships	7,62,314	..	7,62,314
92	Communications (including National Highways)	10,73,266	..	10,73,266
96	Other Civil Works	1,64,10,450	..	1,64,10,450
125	Other Capital Outlay of the Ministry of Irrigation and Power	..	5,134	5,134
133	Capital Outlay on Roads	2,48,91,799	6,682	2,48,98,481
134	Other Capital Outlay of the Ministry of Transport and Communications	..	19,629	19,629
	TOTAL	6,94,69,272	31,445	6,95,00,717

Not Corrected: See India Law Vol. II B, Pt. IV, p 693

THE OFFICIAL LANGUAGES ACT, 1963

No. 19 OF 1963

[10th May, 1963]

An Act to provide for the languages which may be used for the official purposes of the Union, for transaction of business in Parliament, for Central and State Acts and for certain purposes in High Courts.

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

1. (1) This Act may be called the Official Languages Act, 1963.

Short title
and com-
mence-
ment.

(2) Section 3 shall come into force on the 26th day of January, 1965 and the remaining provisions of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

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

Defini-
tions.

(a) "appointed day", in relation to section 3, means the 26th day of January, 1965 and in relation to any other provision of this Act, means the day on which that provision comes into force;

(b) "Hindi" means Hindi in Devanagari script.

3. Notwithstanding the expiration of the period of fifteen years from the commencement of the Constitution, the English language may, as from the appointed day, continue to be used, in addition to Hindi,—

Contin-
ance of
English
language
for official
purposes
of the
Union and
for use in
Parlia-
ment.

(a) for all the official purposes of the Union for which it was being used immediately before that day; and

(b) for the transaction of business in Parliament.

Committee
on Official
Language.

4. (1) After the expiration of ten years from the date on which section 3 comes into force, there shall be constituted a Committee on Official Language, on a resolution to that effect being moved in either House of Parliament with the previous sanction of the President and passed by both Houses.

(2) The Committee shall consist of thirty members, of whom twenty shall be members of the House of the People and ten shall be members of the Council of States, to be elected respectively by the members of the House of the People and the members of the Council of States in accordance with the system of proportional representation by means of the single transferable vote.

(3) It shall be the duty of the Committee to review the progress made in the use of Hindi for the official purposes of the Union and submit a report to the President making recommendations thereon and the President shall cause the report to be laid before each House of Parliament, and sent to all the State Governments.

(4) The President may, after consideration of the report referred to in sub-section (3), and the views, if any, expressed by the State Governments thereon, issue directions in accordance with the whole or any part of that report.

Authorised
Hindi
translation
of Central
Acts, etc.

5. (1) A translation in Hindi published under the authority of the President in the Official Gazette on and after the appointed day,—

(a) of any Central Act or of any Ordinance promulgated by the President, or

(b) of any order, rule, regulation or bye-law issued under the Constitution or under any Central Act,

shall be deemed to be the authoritative text thereof in Hindi.

(2) As from the appointed day, the authoritative text in the English language of all Bills to be introduced or amendments thereto to be moved in either House of Parliament shall be accompanied by a translation of the same in Hindi authorised in such manner as may be prescribed by rules made under this Act.

Not Corrected; See India Gazette, 1963.

6. Where the Legislature of a State has prescribed any language other than Hindi for use in Acts passed by the Legislature of the State or in Ordinances promulgated by the Governor of the State, a translation of the same in Hindi, in addition to a translation thereof in the English language as required by clause (3) of article 348 of the Constitution, may be published on or after the appointed day under the authority of the Governor of the State in the Official Gazette of that State and in such a case, the translation in Hindi of any such Act or Ordinance shall be deemed to be the authoritative text thereof in the Hindi language.

7. As from the appointed day or any day thereafter, the Governor of a State may, with the previous consent of the President, authorise the use of Hindi or the official language of the State, in addition to the English language, for the purposes of any judgment, decree or order passed or made by the High Court for that State and where any judgment, decree or order is passed or made in any such language (other than the English language), it shall be accompanied by a translation of the same in the English language issued under the authority of the High Court.

8. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

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

9. The provisions of section 6 and section 7 shall not apply to the State of Jammu and Kashmir.

Certain provisions not to apply to Jammu and Kashmir.

Not Corrected: See India Comp Vol. II B, Pt. IV, p. 697

THE GOVERNMENT OF UNION TERRITORIES ACT, 1963

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

SECTIONS

1. Short title and commencement.
2. Definitions and interpretation.

PART II

LEGISLATIVE ASSEMBLIES

3. Legislative Assemblies for Union territories and their composition.
4. Qualification for membership of Legislative Assembly.
5. Duration of Legislative Assemblies.
6. Sessions of Legislative Assembly, prorogation and dissolution.
7. Speaker and Deputy Speaker of Legislative Assembly.
8. Speaker or Deputy Speaker not to preside while a resolution for his removal from office is under consideration.
9. Right of Administrator to address and send messages to Legislative Assembly.
10. Rights of Ministers as respects Legislative Assembly.
11. Oath or affirmation by members.
12. Voting in Assembly, power of Assembly to act notwithstanding vacancies and quorum.
13. Vacant of seats.
14. Disqualifications for membership.
15. Penalty for sitting and voting before making oath or affirmation or when not qualified or when disqualified.
16. Powers, privileges, etc., of members.
17. Salaries and allowances of members.
18. Extent of legislative power.
19. Exemption of property of the Union from taxation.

SECTIONS

V. STATE

20. Restrictions on laws passed by Legislative Assembly with respect to certain matters.
21. Inconsistency between laws made by Parliament and laws made by Legislative Assembly.
22. Sanction of the Administrator required for certain legislative proposals.
23. Special provisions as to financial Bills.
24. Procedure as to lapsing of Bills.
25. Assent to Bills.
26. Requirements as to sanction and recommendations to be regarded as matters of procedure only.
27. Annual financial statement.
28. Procedure in Legislative Assembly (with respect to estimates).
29. Appropriation Bills.
30. Supplementary, additional or excess grants.
31. Votes on account.
32. Authorisation of expenditure pending its sanction by Legislative Assembly.
33. Rules of procedure.
34. Official language or languages of Union territory and language or languages to be used in Legislative Assembly thereof.
35. Language to be used for Acts, Bills, etc.
36. Restriction on discussion in the Legislative Assembly.
37. Courts not to inquire into proceedings of Legislative Assembly.

PART III

DELIMITATION OF CONSTITUENCIES

38. Definitions.
39. Assembly constituencies.
40. Representation of Pondicherry in the House of the People.
41. Duties of Delimitation Commission.
42. Associate members.
43. Procedure as to delimitation.

PART IV**COUNCIL OF MINISTERS****SECTIONS**

44. Council of Ministers.
45. Other provisions as to Ministers.
46. Conduct of business.

PART V**MISCELLANEOUS AND TRANSITIONAL PROVISIONS**

47. Consolidated Fund of the Union territory.
48. Contingency Fund of the Union territory.
49. Audit reports.
50. Relation of Administrator and his Ministers to President.
51. Provision in case of failure of constitutional machinery.
52. Special provision for Hill Areas of Manipur.
53. Provisions for election to Parliament from Goa, Daman and Diu, and Pondicherry.
54. Provisions as to provisional Legislative Assemblies of certain Union territories.
55. Contracts and suits.
56. Power of President to remove difficulties.
57. Amendment of certain enactments.
58. Repeal and savings.

THE FIRST SCHEDULE**THE SECOND SCHEDULE**

THE GOVERNMENT OF UNION TERRITORIES
ACT, 1963

NO. 20 OF 1963

[10th May, 1963]

An Act to provide for Legislative Assemblies and Councils of Ministers for certain Union territories and for certain other matters.

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

PART I

PRELIMINARY

1. (1) This Act may be called the Government of Union Territories Act, 1963.

Short title and commencement.

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

Provided that different dates¹ may be appointed for different provisions of this Act and for different Union territories and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

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

Definitions and interpretation.

(a) "Administrator" means the administrator of a Union territory appointed by the President under article 239;

(b) "article" means an article of the Constitution;

¹Provisions of ss. 1, 2, 3, 4, 14, 38, to 43, 53, 56 & 57 and Schedules I and II come into force in the Union territory of Goa, Daman and Diu on 13-5-1963, vide Notification No. G.S.R. 814, dated 13-5-1963, see Gazette of India, Extraordinary, Part II, section 3(i), p. 423.

Provisions of ss. 1, 2, 53, 56 and 57 and Schedule II come into force in the Union territory of Pondicherry on 13-5-1963, vide Notification No. G.S.R. 815, dated 13-5-1963, see *ibid*.

The remaining provisions of this Act come into force in the Union territory of Pondicherry on 1-7-1963, vide Notification No. G.S.R. 1025, dated 15-6-1963, see Gazette of India Extraordinary, Part II, section 3(i), p. 471.

So much of the provisions of this Act as apply to the Union territory of Dadra and Nagar Haveli, come into force in that territory on 1-7-1963, vide G.S.R. 1025, *ibid*.

The Act comes into force in the Union territories of Himachal Pradesh, Manipur and Tripura on 1-7-1963, vide Notification No. S.O. 1660, dated 14-6-1963, Gazette of India, Extraordinary, Part II, section 3(ii), p. 301.

So much of the provisions of this Act as apply to the Union territory of Delhi, come into force in that territory on 1-7-1963, vide S.O. 1660, *ibid*.

(c) "assembly constituency" means a constituency provided under this Act for the purpose of elections to the Legislative Assembly of a Union territory;

(d) "Election Commission" means the Election Commission appointed by the President under article 324;

(e) "Judicial Commissioner" includes an Additional Judicial Commissioner;

(f) "scheduled castes" in relation to a Union territory mean such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under article 341 to be scheduled castes in relation to that Union territory;

(g) "scheduled tribes" in relation to a Union territory mean such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be scheduled tribes in relation to that Union territory;

(h) "Union territory" means any of the Union territories of Himachal Pradesh, Manipur, Tripura, Goa, Daman and Diu, and Pondicherry.

(2) Any reference in this Act to laws made by Parliament shall be construed as including a reference to Ordinances promulgated by the President under article 123 and a reference to Regulations made by the President under article 240.

PART II

LEGISLATIVE ASSEMBLIES

Legislative Assemblies for Union territories and their composition.

3. (1) There shall be a Legislative Assembly for each Union territory.

(2) The total number of seats in the Legislative Assembly of a Union territory to be filled by persons chosen by direct election shall be forty in the case of the Union territory of Himachal Pradesh and thirty in the case of any other Union territory.

(3) The Central Government may nominate not more than three persons, not being persons in the service of Government, to be members of the Legislative Assembly of a Union territory.

(4) Seats shall be reserved for the scheduled castes and the scheduled tribes in the Legislative Assembly of every Union territory other than the Union territory of Goa, Daman and Diu.

(5) The number of seats reserved for the scheduled castes or the scheduled tribes in the Legislative Assembly of any Union territory under sub-section (4) shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the scheduled castes in the Union territory or of the scheduled tribes in the Union territory, as the case may be, in respect

of which seats are so reserved, bears to the total population of the Union territory.

(6) Notwithstanding anything in the foregoing provisions of this section, the provisions relating to the reservation of seats for the scheduled castes and the scheduled tribes in the Legislative Assemblies of the Union territories shall cease to have effect on the same date on which the reservation of seats for the scheduled castes and the scheduled tribes in the House of the People shall cease to have effect under article 334:

Provided that nothing in this sub-section shall affect any representation in the Legislative Assembly of a Union territory until the dissolution of the then existing Assembly.

4. A person shall not be qualified to be chosen to fill a seat in the Legislative Assembly of a Union territory unless he—
Qualification for membership of Legislative Assembly.

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

(b) is not less than twenty-five years of age; and

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

5. The Legislative Assembly of a Union territory, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer, and the expiration of the said period of five years shall operate as a dissolution of the Assembly.
Duration of Legislative Assemblies.

Provided that the said period may, while a Proclamation of Emergency issued under clause (1) of article 352 is in operation, be extended by the President by order for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

6. (1) The Administrator shall, from time to time, summon the Legislative Assembly to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.
Sessions of Legislative Assembly, prorogation and dissolution.

(2) The Administrator may, from time to time,—

(a) prorogue the Assembly;

(b) dissolve the Assembly.

7. (1) Every Legislative Assembly shall, as soon as may be, choose two members of the Assembly to be respectively Speaker and Deputy Speaker thereof and, so often as the office of Speaker or Deputy Speaker becomes vacant, the Assembly shall choose another member to be Speaker or Deputy Speaker, as the case may be.
Speaker and Deputy Speaker of Legislative Assembly.

(2) A member holding office as Speaker or Deputy-Speaker of an Assembly—

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

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

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

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

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

(3) While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker or, if the office of Deputy Speaker is also vacant, by such member of the Assembly as may be determined by the rules of procedure of the Assembly.

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

(5) There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly such salaries and allowances as may be respectively fixed by the Legislative Assembly of the Union territory by law and, until provision in that behalf is so made, such salaries and allowances as the Administrator may, with the approval of the President, by order determine.

Speaker or
Deputy
Speaker
not to pre-
side while
a resolu-
tion for his
removal
from office
is under
considera-
tion.

8. (1) At any sitting of the Legislative Assembly, while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside and the provisions of sub-section (4) of section 7 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker or, as the case may be, the Deputy Speaker is absent.

(2) The Speaker shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly while

any resolution for his removal from office is under consideration in the Assembly and shall, notwithstanding anything in section 12 be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

9. (1) The Administrator may address the Legislative Assembly and may for that purpose require the attendance of members.

(2) The Administrator may also send messages to the Assembly whether with respect to a Bill then pending in the Assembly or otherwise, and when a message is so sent, the Assembly shall with all convenient dispatch consider any matter required by the message to be taken into consideration.

10. Every Minister shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly of the Union territory, and to speak in, and otherwise to take part in the proceedings of, any committee of the Legislative Assembly of which he may be named a member, but shall not by virtue of this section be entitled to vote.

11. Every member of the Legislative Assembly of a Union territory shall, before taking his seat, make and subscribe before the Administrator, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the First Schedule.

12. (1) Save as otherwise provided in this Act, all questions at any sitting of the Legislative Assembly of a Union territory shall be determined by a majority of votes of the members present and voting other than the Speaker or person acting as such.

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

(3) The Legislative Assembly of a Union territory shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Legislative Assembly of a Union territory shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do, sat or voted or otherwise took part in the proceedings.

(4) The quorum to constitute a meeting of the Legislative Assembly of a Union territory shall be one-third of the total number of members of the Assembly.

Right of Administrator to address and send messages to Legislative Assembly.

Rights of Ministers as respects Legislative Assembly.

Oath or affirmation by members.

Voting in Assembly, power of Assembly to act notwithstanding vacancies and quorum.

(5) If at any time during a meeting of the Legislative Assembly of a Union territory there is no quorum, it shall be the duty of the Speaker, or person acting as such, either to adjourn the Assembly or to suspend the meeting until there is a quorum.

Vacation of seats.

13. (1) No person shall be a member both of Parliament and of the Legislative Assembly of a Union territory and if a person is chosen a member both of Parliament and of such Assembly, then, at the expiration of such period as may be specified in the rules made by the President, that person's seat in Parliament shall become vacant, unless he has previously resigned his seat in the Legislative Assembly of the Union territory.

(2) If a member of the Legislative Assembly of a Union territory—

(a) becomes subject to any disqualification mentioned in section 14 for membership of the Assembly, or

(b) resigns his seat by writing under his hand addressed to the Speaker,

his seat shall thereupon become vacant.

(3) If for a period of sixty days a member of the Legislative Assembly of a Union territory is without permission of the Assembly absent from all meetings thereof, the Assembly may declare his seat vacant:

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

Disqualifications for member-ship.

14. (1) A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly of a Union territory—

(a) if he holds any office of profit under the Government of India or the Government of any State or the Government of any Union territory, other than an office declared by law made by Parliament or by the Legislative Assembly of the Union territory not to disqualify its holder; or

(b) if he is for the time being disqualified for being chosen as, and for being, a member of either House of Parliament under the provisions of sub-clause (b), sub-clause (c) or sub-clause (d) of clause (1) of article 102 or of any law made in pursuance of that article.

~~Not Corrected: See Insert~~

(2) For the purposes of this section, a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State or the Government of any Union territory by reason only that he is a Minister either for the Union or for such State or Union territory.

(3) If any question arises as to whether a member of the Legislative Assembly of a Union territory has become disqualified for being such a member under the provisions of sub-section (1), the question shall be referred for the decision of the President and his decision shall be final.

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

15. If a person sits or votes as a member of the Legislative Assembly of a Union territory before he has complied with the requirements of section 11 or when he knows that he is not qualified or that he is disqualified for membership thereof, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Union.

Penalty for sitting and voting before making oath or affirmation or when not qualified or when disqualified.

16. (1) Subject to the provisions of this Act and to the rules and standing orders regulating the procedure of the Legislative Assembly, there shall be freedom of speech in the Legislative Assembly of every Union territory.

Powers, privileges, etc., of members.

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

(3) In other respects, the powers, privileges and immunities of the Legislative Assembly of a Union territory and of the members and the committees thereof shall be such as are for the time being enjoyed by the House of the People and its members and committees.

(4) The provisions of sub-sections (1), (2) and (3) shall apply in relation to persons who by virtue of this Act have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly of a Union territory or any committee thereof as they apply in relation to members of that Assembly.

Salaries
and allow-
ances of
members.

Extent of
legislative
power.

Exemption
of property
of the
Union from
taxation.

Restricti-
ons or laws
passed by
Legislative
Assembly
with res-
pect to
certain
matters.

Inconsis-
tency
between
laws made
by Parlia-
ment and
laws made
by Legis-
lative
Assembly.

17. Members of the Legislative Assembly of a Union territory shall be entitled to receive such salaries and allowances as may from time to time be determined by the Legislative Assembly of the Union territory by law and, until provision in that behalf is so made, such salaries and allowances as the Administrator may, with the approval of the President, by order determine.

18. (1) Subject to the provisions of this Act, the Legislative Assembly of a Union territory may make laws for the whole or any part of the Union territory with respect to any of the matters enumerated in the State List or the Concurrent List in the Seventh Schedule to the Constitution in so far as any such matter is applicable in relation to Union territories.

(2) Nothing in sub-section (1) shall derogate from the powers conferred on Parliament by the Constitution to make laws with respect to any matter for a Union territory or any part thereof.

19. The property of the Union shall, save in so far as Parliament may by law otherwise provide, be exempted from all taxes imposed by or under any law made by the Legislative Assembly of a Union territory or by or under any other law in force in a Union territory:

Provided that nothing in this section shall, until Parliament by law otherwise provides, prevent any authority within a Union territory from levying any tax on any property of the Union to which such property was immediately before the commencement of the Constitution liable or treated as liable, so long as that tax continues to be levied in that Union territory.

20. The provisions of article 286, article 287 and article 288 shall apply in relation to any law passed by the Legislative Assembly of a Union territory with respect to any of the matters referred to in those articles as they apply in relation to any law passed by the Legislature of a State with respect to those matters.

21. If any provision of a law made by the Legislative Assembly of a Union territory is repugnant to any provision of a law made by Parliament, then, the law made by Parliament, whether passed before or after the law made by the Legislative Assembly of the Union territory, shall prevail and the law made by the Legislative Assembly of the Union territory shall, to the extent of the repugnancy, be void.

Explanation.—For the purposes of this section, the expression "law made by Parliament" shall not include any law which provides for the extension to the Union territory of any law in force in any

~~Not Corrected~~

other part of the territory of India or any law made before the commencement of this Act, in relation to any matter with respect to which the Legislative Assembly of the Union territory has power to make laws.

22. No Bill or amendment shall be introduced into, or moved in, the Legislative Assembly of a Union territory without the previous sanction of the Administrator, if such Bill or amendment makes provision with respect to any of the following matters, namely:—

(a) constitution and organisation of the court of the Judicial Commissioner;

(b) jurisdiction and powers of the court of the Judicial Commissioner with respect to any of the matters in the State List or the Concurrent List in the Seventh Schedule to the Constitution.

23. (1) A Bill or amendment shall not be introduced into, or moved in, the Legislative Assembly of a Union territory except on the recommendation of the Administrator, if such Bill or amendment makes provision for any of the following matters, namely:—

(a) the imposition, abolition, remission, alteration or regulation of any tax;

(b) the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of the Union territory;

(c) the appropriation of moneys out of the Consolidated Fund of the Union territory;

(d) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of the Union territory or the increasing of the amount of any such expenditure;

(e) the receipt of money on account of the Consolidated Fund of the Union territory or the custody or issue of such money:

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

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for

Sanction
of the
Adminis-
trator
required
for certain
legislative
proposals.

Special
provisions
as to finan-
cial Bills.

the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of a Union territory shall not be passed by the Legislative Assembly of the Union territory unless the Administrator has recommended to that Assembly the consideration of the Bill.

**Procedure
as to
lapsing
of Bills.**

24. (1) A Bill pending in the Legislative Assembly of a Union territory shall not lapse by reason of the prorogation of the Assembly.

(2) A Bill which is pending in the Legislative Assembly of a Union territory shall lapse on a dissolution of the Assembly.

**Assent
to Bills.**

25. (1) When a Bill has been passed by the Legislative Assembly of a Union territory, it shall be presented to the Administrator and the Administrator shall reserve the Bill for the consideration of the President.

(2) When a Bill is reserved by an Administrator for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom:

Provided that the President may direct the Administrator to return the Bill to the Legislative Assembly together with a message requesting that the Assembly will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and, when a Bill is so returned, the Assembly shall reconsider it accordingly within a period of six months from the date of receipt of such message and, if it is again passed by the Assembly with or without amendment, it shall be presented again to the President for his consideration.

**Requirements
as to sanctions and
recommendations to
be regarded
as matters
of procedure only.**

26. No Act of the Legislative Assembly of a Union territory, and no provision in any such Act, shall be invalid by reason only that some previous sanction or recommendation required by this Act was not given, if assent to that Act was given by the President.

**Annual
financial
statement.**

27. (1) The Administrator of each Union territory shall in respect of every financial year cause to be laid before the Legislative Assembly of the Union territory, with the previous approval of the President, a statement of the estimated receipts and expenditure of the

Union territory for that year, in this Part referred to as the "annual financial statement".

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

(a) the sums required to meet expenditure described by this Act as expenditure charged upon the Consolidated Fund of the Union territory, and

(b) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of the Union territory; and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged on the Consolidated Fund of each Union territory:—

(a) the emoluments and allowances of the Administrator and other expenditure relating to his office as determined by the President by general or special order;

(b) the charges payable in respect of loans advanced to the Union territory from the Consolidated Fund of India including interest, sinking fund charges and redemption charges, and other expenditure connected therewith;

(c) the salaries and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly;

(d) expenditure in respect of the salaries and allowances of a Judicial Commissioner;

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

(f) expenditure incurred by the Administrator in the discharge of his special responsibility;

(g) any other expenditure declared by the Constitution or by law made by Parliament or by the Legislative Assembly of the Union territory to be so charged.

28. (1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of a Union territory shall not be submitted to the vote of the Legislative Assembly of a Union territory, but nothing in this sub-section shall be construed as preventing the discussion in the Legislative Assembly of any of those estimates.

Procedure
in Legis-
lative
Assembly
with res-
pect to
estimates.

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

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

Appropriation Bills.

29. (1) As soon as may be after the grants under section 28 have been made by the Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the Union territory of all moneys required to meet—

(a) the grants so made by the Assembly, and

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

(2) No amendment shall be proposed to any such Bill in the Legislative Assembly which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of the Union territory and the decision of the person presiding as to whether an amendment is inadmissible under this sub-section shall be final.

(3) Subject to the other provisions of this Act, no money shall be withdrawn from the Consolidated Fund of the Union territory except under appropriation made by law passed in accordance with the provisions of this section.

**Supplementary,
additional
or excess
grants.**

30. (1) The Administrator shall—

(a) if the amount authorised by any law made in accordance with the provisions of section 29 to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or

(b) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year,

cause to be laid before the Legislative Assembly of the Union territory, with the previous approval of the President, another statement

showing the estimated amount of that expenditure or cause to be presented to the Legislative Assembly of the Union territory with such previous approval a demand for such excess, as the case may be.

(2) The provisions of sections 27, 28 and 29 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of the Union territory to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the Union territory to meet such expenditure or grant.

31. (1) Notwithstanding anything in the foregoing provisions of this Part, the Legislative Assembly of a Union territory shall have power to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in section 28 for the voting of such grant and the passing of the law in accordance with the provisions of section 29 in relation to that expenditure and the Legislative Assembly shall have power to authorise by law the withdrawal of moneys from the Consolidated Fund of the Union territory for the purposes for which the said grant is made. Votes on account.

(2) The provisions of sections 28 and 29 shall have effect in relation to the making of any grant under sub-section (1) or to any law to be made under that sub-section as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the Union territory to meet such expenditure.

32. Notwithstanding anything in the foregoing provisions of this Part, the Administrator may authorise such expenditure from the Consolidated Fund of the Union territory as he deems necessary for a period of not more than six months beginning with the date of the constitution of the Consolidated Fund of the Union territory, pending the sanction of such expenditure by the Legislative Assembly of the Union territory. Authorisation of expenditure pending its sanction by Legislative Assembly.

Rules of procedure.

33. (1) The Legislative Assembly of a Union territory may make rules for regulating, subject to the provisions of this Act, its procedure and the conduct of its business:

Provided that the Administrator shall, after consultation with the Speaker of the Legislative Assembly and with the approval of the President, make rules—

(a) for securing the timely completion of financial business;

(b) for regulating the procedure of, and the conduct of business in, the Legislative Assembly in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of the Union territory;

(c) for prohibiting the discussion of, or the asking of questions on, any matter which affects the discharge of the functions of the Administrator in so far as he is required by this Act to act in his discretion.

(2) Until rules are made under sub-section (1), the rules of procedure and standing orders with respect to the Legislative Assembly of the State of Uttar Pradesh in force immediately before the commencement of this Act in any Union territory shall have effect in relation to the Legislative Assembly of that Union territory subject to such modifications and adaptations as may be made therein by the Administrator.

Official language or languages of Union territory and language or languages to be used in Legislative Assembly thereof.

34. (1) The Legislative Assembly of a Union territory may by law adopt any one or more of the languages in use in the Union territory or Hindi as the official language or languages to be used for all or any of the official purposes of the Union territory:

Provided that so long as the Legislative Assembly of the Union territory of Pondicherry does not decide otherwise, the French language shall continue to be used as an official language of that Union territory for the same official purposes for which it was being used in that territory immediately before the commencement of this Act:

Provided further that the President may by order direct—

(i) that the official language of the Union shall be adopted for such of the official purposes of the Union territory as may be specified in the order;

(ii) that any other language shall also be adopted throughout the Union territory or such part thereof for such of the official purposes of the Union territory as may be specified in the order, if the President is satisfied that a substantial proportion of the

~~Not Corrected. See India Code~~

[OF 1963]

Government of Union Territories

179

population of the Union territory desires the use of that other language for all or any of such purposes.

(2) The business in the Legislative Assembly of a Union territory shall be transacted in the official language or languages of the Union territory or in Hindi or in English:

Provided that the Speaker of the Legislative Assembly or person acting as such, as the case may be, may permit any member who cannot adequately express himself in any of the languages aforesaid to address the Assembly in his mother-tongue.

35. Notwithstanding anything contained in section 34, until Parliament by law otherwise provides, the authoritative texts—

Language
to be used
for Acts,
Bills, etc.

(a) of all Bills to be introduced or amendments thereto to be moved in the Legislative Assembly of a Union territory,

(b) of all Acts passed by the Legislative Assembly of a Union territory, and

(c) of all orders, rules, regulations and bye-laws issued under any law made by the Legislative Assembly of a Union territory, shall be in the English language:

Provided that where the Legislative Assembly of a Union territory has prescribed any language other than the English language for use in Bills introduced in, or Acts passed by, the Legislative Assembly of the Union territory or in any order, rule, regulation or bye-law issued under any law made by the Legislative Assembly of the Union territory, a translation of the same in the English language published under the authority of the Administrator in the Official Gazette shall be deemed to be the authoritative text thereof in the English language.

36. No discussion shall take place in the Legislative Assembly of a Union territory with respect to the conduct of any Judicial Commissioner or of any judge of the Supreme Court or of a High Court in the discharge of his duties.

Restriction
on discus-
sion in the
Legislative
Assembly.

37. (1) The validity of any proceedings in the Legislative Assembly of a Union territory shall not be called in question on the ground of any alleged irregularity of procedure.

Courts not
to inquire
into pro-
ceedings of
Legislative
Assembly.

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

PART III**DELIMITATION OF CONSTITUENCIES**

Definitions.

38. In this Part, unless the context otherwise requires,—

- (a) "associate member" means a member associated with the Delimitation Commission under section 42;
- (b) "Delimitation Commission" means the Delimitation Commission constituted under section 3 of the Delimitation Commission Act, 1962;
- (c) "latest census figures" mean the census figures in a Union territory ascertained at the latest census of which the finally published figures are available;
- (d) "parliamentary constituency" means a constituency provided by law for the purpose of elections to the House of the People from a Union territory including the Union territory of Delhi.

Assembly constituencies.

39. For the purpose of elections to the Legislative Assembly of a Union territory, the Union territory shall be divided into single-member assembly constituencies in accordance with the provisions of this Part in such manner that the population of each of the constituencies shall, so far as practicable, be the same throughout the Union territory.

Representation of Pondicherry in the House of the People.

Duties of Delimitation Commission.

40. There shall be allotted one seat to the Union territory of Pondicherry in the House of the People and that Union territory shall form one parliamentary constituency.

41. (1) It shall be the duty of the Delimitation Commission—

- (a) to delimit the assembly constituencies in each Union territory, and

(b) to determine, on the basis of the latest census figures, the number of seats to be reserved for the scheduled castes and for the scheduled tribes in the Legislative Assembly of a Union territory other than the Union territory of Goa, Daman and Diu, and the constituencies in which these seats shall be so reserved.

(2) It shall also be the duty of the Delimitation Commission—

- (a) to readjust, on the basis of the latest census figures, the division of each of the Union territories of Delhi, Himachal Pradesh, Manipur and Tripura into parliamentary constituencies, the total number thereof remaining the same;

(b) to determine the constituency in which the seat shall be reserved for the scheduled castes or for the scheduled tribes, as the case may be; and

(c) to divide the Union territory of Goa, Daman and Diu into two single-member parliamentary constituencies.

42. (1) For the purpose of assisting the Delimitation Commission in its duties, the Delimitation Commission shall associate with itself,—
Associate members.

(a) in respect of the Union territory of Delhi, all the members of the House of the People representing that Union territory;

(b) in respect of each of the Union territories of Himachal Pradesh, Manipur and Tripura, all the members of the House of the People representing that Union territory and three members of the Legislative Assembly of that Union territory to be nominated by the Speaker of the Assembly from among the members thereof;

(c) in respect of the Union territory of Goa, Daman and Diu, the two members of the House of the People representing that Union territory;

(d) in respect of the Union territory of Pondicherry, three members of the Legislative Assembly of that Union territory to be nominated by the Speaker of the Assembly from among the members thereof.

(2) The nomination of members of the several Legislative Assemblies under sub-section (1) shall be made by the respective Speakers thereof as soon as practicable and shall be communicated to the Delimitation Commission.

(3) If owing to death or resignation the office of an associate member falls vacant, it shall be filled as soon as practicable under and in accordance with the foregoing provisions of this section.

(4) None of the associate members shall have the right to vote or to sign any decision of the Delimitation Commission.

43. The provisions of sections 7, 9, 10 and 11 of the Delimitation Commission Act, 1962, shall apply, as far as may be, in relation to the delimitation of parliamentary and assembly constituencies under this Part as they apply in relation to the delimitation of parliamentary and assembly constituencies under that Act.

PART IV
COUNCIL OF MINISTERS

**Council of
Ministers.**

44. (1) There shall be a Council of Ministers in each Union territory with the Chief Minister at the head to aid and advise the Administrator in the exercise of his functions in relation to matters with respect to which the Legislative Assembly of the Union territory has power to make laws except in so far as he is required by or under this Act to act in his discretion or by or under any law to exercise any judicial or quasi-judicial functions:

Provided that, in case of difference of opinion between the Administrator and his Ministers on any matter, the Administrator shall refer it to the President for decision and act according to the decision given thereon by the President, and pending such decision it shall be competent for the Administrator in any case where the matter is in his opinion so urgent that it is necessary for him to take immediate action, to take such action or to give such direction in the matter as he deems necessary.

(2) In the exercise of his functions the Administrator of each of the Union territories of Himachal Pradesh, Manipur and Tripura shall have special responsibility for the security of the border and for that purpose he may issue such directions and take such measures as he may think necessary.

(3) If and in so far as any special responsibility of the Administrator is involved under this Act, he shall, in the exercise of his functions, act in his discretion.

(4) If any question arises as to whether any matter is or is not a matter as respects which the Administrator is by or under this Act required to act in his discretion, the decision of the Administrator thereon shall be final.

(5) If any question arises as to whether any matter is or is not a matter as respects which the Administrator is required by any law to exercise any judicial or quasi-judicial functions, the decision of the Administrator thereon shall be final.

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

45. (1) The Chief Minister shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Chief Minister.

Other provisions as to Ministers.

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

(3) The Council of Ministers shall be collectively responsible to the Legislative Assembly of the Union territory.

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

(5) A Minister who for any period of six consecutive months is not a member of the Legislative Assembly of the Union territory shall at the expiration of that period cease to be a Minister.

(6) The salaries and allowances of Ministers shall be such as the Legislative Assembly of the Union territory may from time to time by law determine, and until the Legislative Assembly so determines, shall be determined by the Administrator with the approval of the President.

46. (1) The President shall make rules—

Conduct of business.

(a) for the allocation of business to the Ministers; and

(b) for the more convenient transaction of business with the Ministers including the procedure to be adopted in the case of a difference of opinion between the Administrator and the Council of Ministers or a Minister.

(2) Save as otherwise provided in this Act, all executive action of the Administrator, whether taken on the advice of his Ministers or otherwise, shall be expressed to be taken in the name of the Administrator.

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

PART V

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

Consolidated Fund of the Union territory.

47. (1) As from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, all revenues received in a Union territory by the Government of India or the Administrator of the Union territory in relation to any matter with respect to which the Legislative Assembly of the Union territory has power to make laws, and all grants made and all loans advanced to the Union territory from the Consolidated Fund of India and all moneys received by the Union territory in repayment of loans shall form one Consolidated Fund to be entitled "the Consolidated Fund of the Union territory".

(2) No moneys out of the Consolidated Fund of a Union territory shall be appropriated except in accordance with, and for the purposes and in the manner provided in, this Act.

(3) The custody of the Consolidated Fund of a Union territory, the payment of moneys into such Fund, the withdrawal of moneys therefrom and all other matters connected with or ancillary to those matters shall be regulated by rules made by the Administrator with the approval of the President.

Contingency Fund of the Union territory.

48. (1) There shall be established a Contingency Fund in the nature of an imprest to be entitled "the Contingency Fund of the Union territory, into which shall be paid from and out of the Consolidated Fund of the Union territory such sums as may, from time to time, be determined by law made by the Legislative Assembly of the Union territory; and the said Fund shall be held by the Administrator to enable advances to be made by him out of such Fund.

(2) No advances shall be made out of the Contingency Fund of the Union territory except for the purposes of meeting unforeseen expenditure pending authorisation of such expenditure by the Legislative Assembly of the Union territory under appropriations made by law.

(3) The Administrator may make rules regulating all matters connected with or ancillary to the custody of, the payment of moneys into, and the withdrawal of moneys from, the Contingency Fund of the Union territory.

Not Corrected. See India Code

of 1963] Government of Union Territories

185

49. The reports of the Comptroller and Auditor-General of India relating to the accounts of a Union territory for any period subsequent to the date referred to in sub-section (1) of section 47 shall be submitted to the Administrator who shall cause them to be laid before the Legislative Assembly of the Union territory.

50. Notwithstanding anything in this Act, the Administrator and his Council of Ministers shall be under the general control of, and comply with such particular directions, if any, as may from time to time be given by, the President.

51. If the President, on receipt of a report from the Administrator of a Union territory or otherwise, is satisfied—

(a) that a situation has arisen in which the administration of the Union territory cannot be carried on in accordance with the provisions of this Act, or

(b) that for the proper administration of the Union territory it is necessary or expedient so to do,

the President may, by order, suspend the operation of all or any of the provisions of this Act for such period as he thinks fit and make such incidental and consequential provisions as may appear to him to be necessary or expedient for administering the Union territory in accordance with the provisions of article 239.

52. (1) There shall be a Standing Committee of the Legislative Assembly of the Union territory of Manipur consisting of all the members of the Legislative Assembly who for the time being represent the constituencies situated in the Hill Areas of that territory:

Provided that the Chief Minister and the Speaker shall not be members of the Standing Committee.

(2) The President may by notification determine the area which shall be regarded as the Hill Areas of Manipur and specify the constituencies situated in the Hill Areas.

(3) Every Minister shall have the right to speak in, and otherwise take part in the proceedings of, the Standing Committee, but shall not, by virtue of such right, be entitled to vote at any meeting of the Committee if he is not a member thereof.

(4) The following matters in so far as they relate to the Hill Areas of Manipur shall be within the purview of the Standing Committee to the extent and in the manner provided by this section, namely:—

(a) the allotment, occupation, or use, or the setting apart of land (other than any land which is a reserved forest) for the purposes of agriculture or grazing or for residential or other non-agricultural purposes or for any other purpose likely to promote the interests of the inhabitants of any village or town situated within the Hill Areas:

Provided that nothing in this clause shall be deemed to require the reference to the Standing Committee of any proposal for compulsory acquisition of any land for a public purpose;

(b) the management of any forest not being a reserved forest;

(c) the use of any canal or water course for purposes of agriculture;

(d) the regulation of the practice of *jhum* or other forms of shifting cultivation;

(e) the establishment of village or town committees or councils and their powers; and any other matter relating to village or town administration, including village or town police and public health and sanitation;

(f) the appointment or succession of chiefs or headmen;

(g) the inheritance of property;

(h) marriage; and

(i) social customs.

(5) Every Bill which is not a financial Bill and contains mainly provisions dealing with matters specified in sub-section (4) shall, upon introduction in the Legislative Assembly of the Union territory of Manipur, be referred to the Standing Committee for consideration and report to the Legislative Assembly.

(6) If any question arises whether a Bill attracts the provisions of sub-section (5) or not, the question shall be referred to the Administrator and his decision thereon shall be final.

(7) Any Bill referred to the Standing Committee under sub-section (5) may, if so recommended by the Standing Committee, be passed by the Legislative Assembly with such variations as may be necessary in its application to areas other than the Hill Areas.

(8) When a Bill as reported by the Standing Committee is not passed by the Legislative Assembly in the form in which it has been reported but is passed in a form which, in the opinion of the Speaker, is substantially different from that as reported by the Standing Committee, or is rejected by the Legislative Assembly, the Speaker shall submit to the Administrator—

(a) in any case where the Bill has been passed by the Legislative Assembly in a substantially different form, the Bill as passed by the Assembly together with the Bill as reported by the Standing Committee;

(b) in any case where the Bill is rejected by the Assembly, the Bill as reported by the Standing Committee.

(9) The Administrator shall, as soon as possible after the submission to him of the Bill, return the Bill to the Legislative Assembly with a message recommending either that the Bill be withdrawn or that it be passed in the form in which it has been reported by the Standing Committee or in the form in which it has been passed by the Legislative Assembly and the message received from the Administrator shall be reported by the Speaker to the Assembly and accordingly, the Bill shall be deemed to have been withdrawn, or as the case may be, be deemed to have been passed by the Assembly in the form recommended by the Administrator.

(10) The Standing Committee shall have power to consider and pass resolutions recommending to the Administrator any legislative or executive action with respect to matters specified in sub-section (4), so however that the executive action relates to general questions of policy and the legislative or executive action does not involve any financial commitments other than expenditure of a routine and incidental character.

(11) The Council of Ministers shall normally give effect to the recommendations of the Standing Committee under sub-section (10) but if the Council is of the opinion that it would not be expedient to do so or that the Standing Committee was not competent to make any such recommendations, the matter shall be referred to the Administrator whose decision thereon shall be final and binding on the Council and action shall be taken accordingly.

(12) The Administrator shall have special responsibility for securing the proper functioning of the Standing Committee in accordance with this section.

Provisions
for elec-
tion to
Parlia-
ment
from Goa,
Daman and
Diu, and
Pondi-
cherry.

53. (1) As soon as practicable after the commencement of this Act, elections shall be held in accordance with law—

(a) to fill the seats in the House of the People allotted to the Union territory of Goa, Daman and Diu; and

(b) to fill the seat in the House of the People and the seat in the Council of States allotted to the Union territory of Pondicherry.

(2) Notwithstanding anything contained in any other law for the time being in force, the members nominated to represent the Union territory of Goa, Daman and Diu in the House of the People shall continue to be such until the election of the members to fill the two seats in that House allotted to that Union territory:

Provided that where the dates of election of the members are different, the members so nominated shall cease to be members of that House on the earlier of those two dates.

Explanation.—In this sub-section, the expression “date of election” has the same meaning as in section 67A of the Representation of the People Act, 1951.

43 of 1951.

Provisions
as to pro-
visional
Legislative
Assem-
blies of
certain
Union
territories.

54. (1) In this section “constituency” means—

(a) in each of the Union territories of Himachal Pradesh, Manipur and Tripura, a territorial council constituency provided in accordance with the provisions of the Territorial Councils Act, 1956, for the purpose of elections to a Territorial Council constituted under that Act;

103 of
1956.

(b) in the Union territory of Pondicherry, a territorial constituency provided in accordance with the provisions of the State of Pondicherry (Representation of the People) Order, 1955, for the purpose of elections to the Representative Assembly of the State of Pondicherry.

(2) Notwithstanding anything in this Act, until the Legislative Assembly of each of the Union territories of Himachal Pradesh, Manipur, Tripura and Pondicherry has been duly constituted and summoned to meet for the first session under and in accordance with the provisions of this Act, the following provisions shall apply in relation to the Legislative Assembly of each of those Union territories, namely:—

(a) every constituency in existence immediately before the commencement of this Act shall on and from such commencement be deemed to be an assembly constituency of the same

name for the purpose of elections to the Legislative Assembly of the Union territory under this section;

(b) the seat reserved in any constituency for the scheduled castes in the Union territory of Himachal Pradesh shall be reserved in the assembly constituency of the same name for those castes;

(c) every person who immediately before the commencement of this Act is a member elected from a constituency to fill a seat in the Territorial Council of Himachal Pradesh, Manipur or Tripura or in the Representative Assembly of Pondicherry shall, on and from such commencement, represent the assembly constituency of the same name in the Legislative Assembly and shall be deemed to have been elected to the Legislative Assembly from that constituency, and every person who immediately before such commencement is a member nominated to the Territorial Council by the Central Government shall be deemed to have been nominated to the Legislative Assembly;

and accordingly on the commencement of this Act, the Legislative Assembly of the Union territory shall, without any further action or step being taken in this behalf, be deemed to be duly constituted:

Provided that a person who, immediately before the commencement of this Act, is a member of the Representative Assembly of Pondicherry shall not become a member of the Legislative Assembly thereof unless he is a citizen of India.

(3) The period of five years referred to in section 5 shall in the case of a Legislative Assembly functioning under this section be deemed to have commenced—

(i) in the case of the Legislative Assembly of the Union territory of Himachal Pradesh, on the 3rd August, 1962;

(ii) in the case of the Legislative Assembly of the Union territory of Manipur, on the 3rd August, 1962;

(iii) in the case of the Legislative Assembly of the Union territory of Tripura, on the 1st August, 1962; and

(iv) in the case of the Legislative Assembly of the Union territory of Pondicherry, on the 25th August, 1959.

(4) In other respects, the provisions of Part II shall, so far as may be, apply in relation to a Legislative Assembly functioning under this section as they apply in relation to a Legislative Assembly constituted under and in accordance with the provisions of that Part.

**Contracts
and suits.**

55. For the removal of doubts it is hereby declared that—

- (a) all contracts in connection with the administration of a Union territory are contracts made in the exercise of the executive power of the Union;
- (b) all suits and proceedings in connection with the administration of a Union territory shall be instituted by or against the Government of India.

**Power of
President
to remove
difficulties.**

56. If any difficulty arises in relation to the transition from the provisions of any of the laws repealed by this Act or in giving effect to the provisions of this Act and, in particular, in relation to the constitution of the Legislative Assembly for any Union territory, the President may by order do anything not inconsistent with the provisions of this Act which appear to him to be necessary or expedient for the purpose of removing the difficulty.

**Amend-
ment to
certain
enact-
ments.**

57. (1) The enactments specified in the Second Schedule—

- (a) shall, together with all rules, notifications and orders made or issued thereunder, extend to and come into force in the Union territories of Goa, Daman and Diu, and Pondicherry; and
- (b) shall be subject to the amendments mentioned in the fourth column of the said Schedule.

(2) All things done, and all steps taken, before the commencement of this Act in connection with the preparation or revision of electoral rolls for the purpose of elections to the House of the People from the Union territories of Goa, Daman and Diu, and Pondicherry, and to the Legislative Assemblies of those Union territories shall, in so far as they are in conformity with the provisions of the Representation of the People Act, 1950, as amended by this Act, be deemed to 43 of 1950. have been done in accordance with law.

**Repeal and
savings.**

58. (1) The following laws are hereby repealed:—

- (a) the Territorial Councils Act, 1956;
- (b) the Decree No. 46-2381, dated the 25th October, 1946, as subsequently amended, relating to the Representative Assembly of the State of Pondicherry;
- (c) the Decree No. 47-1490, dated the 12th August, 1947, as subsequently amended, relating to the setting up of a Council of Government in the State of Pondicherry;
- (d) the State of Pondicherry (Representation of the People) Order, 1955, in so far as it relates to the Representative Assembly of Pondicherry.

~~Not Corrected; see Justice Case~~

OF 1963]

Government of Union Territories

191

103 of
1956.

(2) Notwithstanding the repeal of the Territorial Councils Act, 1956,—

(a) every officer and other employee of the Territorial Council of a Union territory serving under the Council immediately before such repeal shall become an officer or other employee of Government and shall be employed in connection with the administration of the Union territory with such designation as the Administrator may determine and shall hold office by the same tenure and at the same remuneration and on the same terms and conditions of service as he would have but for such repeal held the same and shall continue to do so unless and until such tenure, remuneration and terms and conditions are duly altered by the Administrator:

Provided that—

(i) the tenure, remuneration and terms and conditions of service of any such officer or other employee shall not be altered to his disadvantage without the previous sanction of the Central Government;

(ii) any service rendered by any such officer or other employee before such repeal shall be deemed to be service rendered in connection with the administration of the Union territory;

(iii) the Administrator may employ any such officer or other employee in the discharge of such functions as the Administrator may think proper and every such officer or other employee shall discharge those functions accordingly;

(b) anything done or any action taken (including any notification, order, scheme, rule, form, notice or bye-law made or issued, any licence or permission granted) under the repealed Act shall in so far as it is not inconsistent with the provisions of this Act, continue in force unless and until it is superseded by anything done or any action taken in accordance with law;

(c) all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Territorial Council before such repeal shall be deemed to have been incurred, entered into or engaged to be done in exercise of the executive power of the Union for the purposes of the administration of the Union territory;

(d) all assessments, valuations, measurements or divisions made by the Territorial Council shall, in so far as they are not

inconsistent with the provisions of this Act, continue in force unless and until they are superseded by any assessment, valuation, measurement or division made by the Administrator in accordance with law;

(e) all properties, movable and immovable, and all interests of whatsoever nature and kind, vested in the Territorial Council immediately before such repeal shall, with all rights of whatsoever description, used, enjoyed or possessed by that Council, **vest in the Union for the purposes of the administration of the Union territory;**

(f) all rates, taxes, cesses, fees, rents, fares and other charges which immediately before such repeal were being lawfully levied by the Territorial Council shall continue to be levied at the same rate at which they were being levied by the Council immediately before such repeal until provision to the contrary is made by law;

(g) all rates, taxes, cesses, fees, rents, fares and other charges due to the Territorial Council immediately before such repeal shall be deemed to be due to the Union in connection with the administration of the Union territory;

(h) all suits, prosecutions and other legal proceedings instituted or which might have been instituted by or against the Territorial Council may be continued or instituted by or against the Government of India.

THE FIRST SCHEDULE

[See sections 4 (a), 11 and 45 (4)]

FORMS OF OATHS OR AFFIRMATIONS

I

FORM OF OATH OR AFFIRMATION TO BE MADE BY A CANDIDATE FOR ELECTION TO THE LEGISLATIVE ASSEMBLY

"I, A.B., having been nominated as a candidate to fill a seat in the Legislative Assembly of _____ do swear in the name of God solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will uphold the sovereignty and integrity of India."

II

FORM OF OATH OR AFFIRMATION TO BE MADE BY A MEMBER OF THE LEGISLATIVE ASSEMBLY OF A UNION TERRITORY

"I, A.B., having been elected (or nominated) a member of the Legislative Assembly of _____ do swear in the name of God solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter."

III

FORM OF OATH OF OFFICE FOR A MEMBER OF THE COUNCIL OF MINISTERS OF A UNION TERRITORY

do swear in the name of God
"I, A.B., solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will faithfully and conscientiously discharge my duties as a Minister for the Union territory of _____, and that I will do right to all manner of people in accordance with the Constitution and the law without fear or favour, affection or ill-will."

IV

FORM OF OATH OF SECRECY FOR A MEMBER OF THE COUNCIL OF MINISTERS OF A UNION TERRITORY

do swear in the name of God
"I, A.B., solemnly affirm that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister for the Union territory of _____ except as may be required for the due discharge of my duties as such Minister."

THE SECOND SCHEDULE

(See section 57)

ENACTMENTS AMENDED

Year	Number	Short title	Amendments
1	2	3	4
1950	43	The Representation of the People Act, 1950.	<p>In section 4, in sub-section (1), the words "to Goa, Daman and Diu" shall be omitted.</p> <p>In section 13B, in sub-section (1), for the words "a Union territory", the words "the Union territory of Delhi" shall be substituted.</p> <p>In section 13D, in sub-sections (1) and (2), for the words "a Union territory", the words "the Union territory of Delhi" shall be substituted.</p> <p>In section 27A,—</p> <ul style="list-style-type: none"> (i) sub-section (2) shall be omitted; (ii) for sub-section (4), the following sub-section shall be substituted, namely:— <p style="padding-left: 40px;">“(4) The electoral college for each of the Union territories of Himachal Pradesh, Manipur, Tripura and Pondicherry shall consist of the elected members of the Legislative Assembly constituted for that territory under the Government of Union Territories Act, 1963.”</p> <p>In the First Schedule,—</p> <ul style="list-style-type: none"> (i) after the entry “24.. Goa, Daman and Diu..2”, the entry “25. Pondicherry ..1” shall be inserted and the existing entry relating to North East Frontier Tract shall be renumbered as entry 26; (ii) for the total, the following total shall be substituted, namely:— <p style="text-align: right;">“TOTAL . . . 508”.</p>

Year	Number	Short title	Amendments
1	2	3	4

1950 43 The Representation of the People Act, 1950. In the Second Schedule, after entry 15 relating to Nagaland, the following entries shall be inserted, namely:—

- (i) 16. Himachal Pradesh 40
- (ii) 17. Manipur 30
- (iii) 18. Tripura 30
- (iv) 19. Goa, Daman and Diu 30
- (v) 20. Pondicherry 30".

The Fifth Schedule shall be omitted.

1951 43 The Representation of the People Act, 1951. In section 4, the words "to Goa, Daman and Diu" shall be omitted;

In section 15, in sub-section (2),—

(i) for the words "the Governor", the words "the Governor or Administrator, as the case may be" shall be substituted;

(ii) in the proviso, the words and figures "or under the provisions of section 5 of the Government of Union Territories Act, 1963, as the case may be" shall be added at the end.

In section 32, the words and figures "or under the provisions of the Government of Union Territories Act, 1963, as the case may be." shall be added at the end.

In section 36, in clause (a) of sub-section (2),—

(i) the word "and" occurring after the figures "191" shall be omitted;

(ii) for the words and figure "Part II of this Act", the words and figures "Part II of this Act, and sections 4 and 14 of the Government of Union Territories Act, 1963" shall be substituted.

In section 55, the words and figures "or under the Government of Union Territories Act, 1963, as the case may be." shall be added at the end.

In section 100, in clause (a) of sub-section (1), after the words "this Act", the words and figures "or the Government of Union Territories Act, 1963." shall be inserted.

~~Not Corrected. See para 10.~~

196

Government of Union Territories

[ACT 20 OF 1963]

Year	Number	Short title	Amendments
1	2	3	4
1956	37	The States Reorganisation Act, 1956.	<p>In section 15 of the States Reorganisation Act, 1956,—</p> <p>(i) in clause (d), after the word "Maharashtra", the words "and the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu" shall be inserted;</p> <p>(ii) in clause (e), after the word "Kerala", the words "and the Union territory of Pondicherry" shall be inserted.</p>

THE COMPULSORY DEPOSIT SCHEME ACT, 1963

No. 21 OF 1963

[22nd May, 1963]

An Act to provide in the interest of national economic development for compulsory deposit and for the framing of a scheme in relation thereto.

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

1. (1) This Act may be called the Compulsory Deposit Scheme Short title, extent and commencement.
Act, 1963.

(2) It extends to the whole of India.

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

2. This Act shall apply to the following categories of persons, Persons to whom Act applies.
namely:—

(a) persons liable to payment of land-revenue (whether known as land-revenue, rent, tax or by any other name) under any law with respect to land-revenue whether or not such persons are liable to pay tax under the Income-tax Act;

(b) persons liable to payment of tax under the Income-tax Act;

(c) holders of immovable properties situated in urban areas assessed to tax (whether known as property tax, house tax or by any other name) who are not liable to payment of tax under the Income-tax Act;

(d) employees of—

(i) the Central and State Governments,

(ii) local authorities,

¹11-6-1963; vide Notification No. G.S.R. 887, dated 25-5-1963, Gazette of India Extraordinary, Pt. II, Sec. 3(i), p. 439.

(iii) companies as defined in section 3 of the Companies Act, 1956, including foreign companies within the meaning of section 591 and Government companies as defined in section 617 of that Act,

(iv) any other corporation (including a co-operative society) established by or under a Central, Provincial or State Act,

(v) individuals or associations of persons or bodies of individuals liable to payment of tax under the Income-tax Act, and entitled to deduct the salary paid to their employees for the purpose of computing their income under that Act,

whose annual income from salary is one thousand five hundred rupees or more and who are not liable to payment of tax under the Income-tax Act;

(e) dealers whose annual turnover, determined in accordance with the provisions of any State Act with respect to tax on the sale of goods, is fifteen thousand rupees or more and who are not liable to payment of tax under the Income-tax Act:

Provided that where by or under any such State Act any amount higher than fifteen thousand rupees has been fixed as the minimum annual turnover for the purpose of registration under that Act the reference to fifteen thousand rupees in this clause shall be construed as a reference to that amount.

*Explanation.—*In this clause,—

(a) “dealer” has the same meaning as in the respective State Acts with respect to tax on the sale of goods;

(b) “State Act” includes a Provincial Act;

(f) such other categories of persons [than those referred to in clauses (a) to (e)] whose annual income is one thousand five hundred rupees or more and who are not liable to payment of tax under the Income-tax Act, as may be specified by the Central Government by notification in the Official Gazette.

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

(a) “additional surcharge” means additional surcharge for the purposes of the Union referred to in the annual Finance Act;

(b) “deposit” means a deposit of money;

(c) “Income-tax Act” means the Income-tax Act, 1961; 43 of 19

(d) “person” shall have the same meaning as in clause (31) of section 2 of the Income-tax Act;

Definitions.

(e) "salary" has the same meaning as in section 17 of the Income-tax Act, but in relation to a person falling under clause (d) of section 2 does not include any gratuity or annuity or pension;

(f) "urban area" means any area within the local limits of a municipality (by whatever name called), a notified area committee, a town area committee, a city and town committee, a small town committee, a Cantonment Board or a Panchayat constituted by reorganisation of any of the aforesaid local authorities and having a population of ten thousand or more;

(g) "year" means the financial year.

4. (1) As from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, every person to whom this Act applies, other than a person falling under clause (b) of section 2, shall make a compulsory deposit at such rate as may be provided for in a scheme framed under this Act:

Provided that different notifications may be issued under this sub-section on different dates in relation to different categories of persons:

Provided further that the rate of compulsory deposit shall not exceed the maximum rate specified in sub-section (2).

(2) The maximum rate of deposit shall be--

(a) in the case of a person falling under clause (a) of section 2, fifty per cent. of the land-revenue (including surcharge thereon, if any,) payable in respect of the land or lands held by him in the year for which the deposit is required to be made.

Explanation.—In this clause "year" means the year with reference to which land-revenue is payable under any law with respect to land-revenue;

(b) in the case of a person falling under clause (c) of that section, three per cent. of the annual rental value of the property with reference to which the property is assessed to the tax referred to in that clause in the year in which the deposit is required to be made:

Provided that where the property is assessed to such tax not with reference to its annual rental value, the maximum rate of deposit under this clause shall be twelve and a half per cent. of such tax;

(c) in the case of a person falling under clause (d) of that section, three per cent. of his annual income from salary,

(d) in the case of a person falling under clause (e) of that section, one-third of one per cent. of his turnover during the year immediately preceding the year in which the deposit is required to be made;

(e) in the case of a person falling under clause (f) of that section, a sum of sixty rupees per annum.

(3) A person falling under clause (b) of section 2 by whom any additional surcharge is payable in respect of any assessment year may make a deposit under this Act in respect of that year and if he does so, then, he shall, on production of proof before the income-tax officer concerned of the fact of such deposit having been made, be entitled to deduction from the additional surcharge of a sum which shall be equal to—

(a) the sum so deposited, or

(b) (i) where his residual income is six thousand rupees or less, three per cent. of such residual income, or

(ii) where his residual income exceeds six thousand rupees, three per cent. of the first six thousand rupees of such residual income and two per cent. of the balance thereof,

whichever is less.

Explanation.—In this sub-section “residual income” has the same meaning as in section 2 of the Finance Act, 1963.

13 of 1963.

(4) Any person falling under clause (b) of section 2 who is in receipt of any income under the head “Salaries” during any financial year may make a deposit under this Act in that year and if he does so, then, notwithstanding anything in the Income-tax Act, the person responsible for paying that income shall, on production of proof of the fact of such deposit having been made, reduce the amount of additional surcharge included in the tax to be deducted in accordance with the provisions of section 192 of that Act by a sum which shall be equal to—

(a) the sum so deposited, or

(b) the sum calculated in accordance with clause (b) of sub-section (3),

whichever is less.

- (5) Any person falling under clause (b) of section 2 who is liable to pay advance tax under the Income-tax Act in any financial year may make a deposit under this Act in that year and if he does so, then, notwithstanding anything contained in the Income-tax Act, he shall, on production of proof before the income-tax officer concerned of the fact of such deposit having been made, be entitled to deduction from the additional surcharge included in the advance tax, of a sum which shall be equal to—
(a) the sum so deposited, or
(b) the sum calculated in accordance with clause (b) of sub-section (3), whichever is less.

Explanation.—In this sub-section, “advance tax” shall have the same meaning as in section 207 of the Income-tax Act.

- (6) Where a person falling under clause (d) of section 2 pays in any year any sum,—
(i) to effect or to keep in force any insurance on the life of such person or on the life of the wife or husband of such person; or
(ii) as a contribution to any provident fund to which the Provident Funds Act, 1925, applies or to any “recognised provident fund” as defined in clause (38) of section 2 of the Income-tax Act; or
(iii) in a ten-year account or a fifteen-year account under the Post Office Savings Bank (Cumulative Time Deposit) Rules, 1959, as amended from time to time,

he shall not be liable to make any compulsory deposit under this section for that year if such sum is not less than eleven per cent. of his annual income from salary.

- (7) Where any person falls under any two or more categories referred to in section 2 other than the category referred to in clause (b) of that section, then, he shall make a compulsory deposit at the rate applicable to each of those categories.

- (8) Any deposit made under this section shall bear simple interest at the rate of four per cent. per annum to be calculated from the first day of the month immediately following the month in which the deposit is made to the last day of the month immediately preceding the month in which it is repaid (both days inclusive) and notwithstanding anything in the Income-tax Act, the amount of such interest shall be free of any tax under that Act.

(9) Any deposit made under this section during any year shall be repayable with interest thereon at any time after the expiry of five years from the end of the year in which the deposit has been made:

Provided that nothing in this sub-section shall prevent earlier repayment of any deposit with interest thereon in any case in which the authority empowered to make such repayment is satisfied that genuine hardship will be caused unless such repayment is made.

(10) If any doubt or dispute arises as to the amount to be deposited by any person under this Act or as to the date on which such amount is to be deposited or as to any other matter in relation to any deposit to be made under this Act, the decision thereon of the Government or any authority empowered by the Government in this behalf shall be final.

**Compulsory
Deposit
Scheme.**

5. (1) The Central Government shall, by notification in the Official Gazette, frame one or more scheme or schemes to be called Compulsory Deposit Scheme or Schemes in relation to deposits under this Act.

(2) A scheme framed under sub-section (1) may provide for,—

(a) the rates at which and the period for which compulsory deposits shall be made by the several categories of persons to whom this Act applies and the extension of such period;

(b) the manner (including the deduction of deposits at source) in which and the intervals at which such deposits shall be made;

(c) the documents to be issued to persons by whom deposits have been made as evidence of such deposits;

(d) the authority or authorities by or through whom deposits may be collected or by whom penalties for failure to make deposits may be levied;

(e) the accounts to be maintained with respect to such deposits and the officers by whom such accounts shall be maintained;

(f) the nomination of any person to receive the amount standing to the credit of a depositor in the event of his death and the cancellation or change of such nomination;

(g) the issue of duplicate of any document issued as evidence of any deposit in the event of loss or destruction of the original and the fee on the payment of which such duplicate may be issued;

(h) the exemptions, if any, to be granted in exercise of the powers under section 9;

(i) the delegation of powers in pursuance of section 10;

(j) the repayment and withdrawal of deposits with interest thereon and the conditions, if any, under which such repayment or withdrawal may be made;

(k) any other matter which may be necessary or proper for the effective implementation of the Scheme.

(3) A scheme framed under this section may provide that all or any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in this behalf in the Scheme.

(4) Any scheme framed under this section shall have effect notwithstanding anything contained in any law for the time being in force, other than this Act, or in any instrument having effect by virtue of any law other than this Act.

6. The Central Government may, by notification in the Official Gazette, add to, amend or vary any scheme framed under this Act.

Modifica-
tion of
Scheme.

7. Where the amount of any deposit to be made under this Act contains a part of a rupee, then, if such part is fifty naye paise or more, it shall be increased to one complete rupee and if such part is less than fifty naye paise, it shall be ignored.

8. Where the State Government has suspended payment of land-revenue, or reduced or remitted the amount of land-revenue, payable in any year in respect of any land, then, the Central Government may, by order, suspend payment of the compulsory deposit, or reduce or remit the amount of such deposit payable in that year under section 4 by a person falling under clause (a) of section 2.

9. Where the Central Government is of the opinion that it is necessary or expedient so to do, either in the public interest or having regard to the peculiar circumstances of any case, it may, by notification in the Official Gazette and subject to such conditions, if any, as it may specify in the notification,—

(a) exempt any person or class of persons from the operation of all or any of the provisions of this Act; and

(b) cancel any such notification and again subject, by a like notification, the person or class of persons to the operation of such provisions.

Power to
delegate:

10. The Central Government may, by notification in the Official Gazette, direct that any power which may be exercised by it under this Act, other than the power under section 5 or the power under this section, shall, subject to such restrictions and conditions, if any, as it may specify in the notification, be exercised also by—

(a) such officer or authority subordinate to the Central Government, or

(b) such State Government or such officer or authority subordinate to a State Government, or

(c) such other officer or authority,

as may be specified in the notification.

Protection
against
attach-
ment:

11. (1) The amount standing to the credit of any depositor shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the depositor.

(2) Any amount standing to the credit of a depositor at the time of his death and payable to his nominee under a scheme shall vest in the nominee and shall be free from any debt or other liability incurred by the deceased or incurred by the nominee before the death of the depositor.

Penalty for
failure to
make
deposit.

12. (1) If any person who is liable to make a deposit under this Act fails to make the same within the time specified therefor, he shall be liable to pay by way of penalty an amount not exceeding half the amount of deposit which he is liable to make:

Provided that before levying any such penalty such person shall be given a reasonable opportunity of being heard in respect of the same.

(2) Where any person is responsible for paying any income falling under the head "Salaries" as mentioned in the Income-tax Act, then notwithstanding anything in that Act, in computing the total income of that person under that Act for any assessment year commencing on or after the 1st day of April, 1964, no deduction shall be allowed in respect of payment of any income under that head which in the case of any employee exceeds one thousand five hundred rupees but from which no tax is deductible under the heading "B—Deduction at source" in Chapter XVII of that Act unless a sum equal to the amount which such employee is required to deposit under this Act is deducted from such income at source and is deposited in accordance with the provisions of this Act and the Scheme framed thereunder.

13. Any arrear of deposit and any penalty for failure to make such deposit under this Act shall be recoverable in the same manner as an arrear of land-revenue.

Recovery of arrears of deposit and penalty.

14. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or any scheme framed thereunder.

Protection of action taken in good faith.

15. If any difficulty arises in giving effect to the provisions of this Act or of any scheme framed thereunder, the Central Government may, by order, as occasion requires, do anything (not inconsistent with this Act) which appears to it to be necessary for removing the difficulty.

Power to remove difficulties.

16. Any scheme framed under this Act shall be laid, as soon as may be, after it is framed 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 that session in which it is so laid or the session or sessions immediately following both Houses agree in making any modification in any provision of the scheme or both Houses agree that any provision in the scheme should not be made, the provision of the scheme 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 provision.

Scheme to be laid before the Houses of Parliament.

Not Corrected: See India Code, Vol VIII B, Pt I, p 63.

THE EXPORT (QUALITY CONTROL AND INSPECTION) ACT, 1963

NO. 22 OF 1963

[24th August, 1963]

An Act to provide for the sound development of the export trade of India through quality control and inspection and for matters connected therewith.

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

Short title,
extent and
commencement.

1. (1) This Act may be called the Export (Quality Control and Inspection) Act, 1963.

(2) It extends to the whole of India.

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

Defini-
tions.

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

(a) "Council" means the Export Inspection Council established under section 3;

(b) "export", with its grammatical variations and cognate expressions, means taking out of India to a place outside India;

(c) "inspection", in relation to a commodity, means the process of determining whether a batch of goods in that commodity complies with the standard specifications applicable to it or any other specifications stipulated in the export contract generally by inspecting either the whole batch or a selected sample or samples which purport to represent the whole batch;

(d) "notified commodity" means any commodity notified under clause (a) of section 6;

¹11-1-1964; Vide Notification No. S.O. 3604, dated 30-12-1963, Gazette of India, Extraordinary, Pt. II, Sec. 3(ii), p. 895.

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

(f) "quality control" means any activity having for its object the determination of the quality of a commodity (whether during the process of manufacture or production or subsequently) in order to ascertain whether it satisfies the standard specifications applicable to it or any other specifications stipulated in the export contract and whether it may be accepted for purposes of export.

3. (1) The Central Government may, by notification in the Official Gazette, establish, with effect from such date as may be specified in the notification, a Council to be known as the Export Inspection Council, which shall consist of—

- (a) a Chairman to be appointed by the Central Government;
- (b) the Director of Inspection and Quality Control, *ex officio*, who shall be the Secretary;
- (c) the Honorary Adviser on Standardization to the Government of India and Director of Indian Standards Institution, *ex officio*;
- (d) the Agricultural Marketing Adviser to the Government of India, *ex officio*;
- (e) the Director-General of Commercial Intelligence and Statistics, *ex officio*;
- (f) eleven other members nominated by the Central Government three of whom shall be persons representing the agencies referred to in section 7.

(2) The Council shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to contract, and shall by the said name sue and be sued.

(3) The term of office of, and the manner of filling casual vacancies among, the members of the Council referred to in clauses (a) and (f) of sub-section (1) and the travelling and daily allowances payable to the members of the Council and the procedure to be followed in the discharge of its functions by the Council shall be such as may be prescribed.

Establishment of
Export
Inspection
Council.

(4) No act or proceeding of the Council shall be invalidated merely by reason of any vacancy in, or any defect in the constitution of, the Council.

(5) Subject to such rules as may be made by the Central Government in this behalf, the Council may appoint such officers and other employees as it considers necessary for the purpose of discharging its functions under this Act.

**Director
of Inspec-
tion and
Quality
Control.**

4. The Central Government shall appoint a Director of Inspection and Quality Control to exercise such powers and perform such duties under this Act as may be prescribed.

**Functions
of the
Council.**

5. (1) The functions of the Council shall generally be to advise the Central Government regarding measures for the enforcement of quality control and inspection in relation to commodities intended for export and to draw up programmes therefor, to make, with the concurrence of the Central Government, grants-in-aid to the agencies established or recognised under section 7 and to perform such other functions as may be assigned to it by or under this Act.

(2) For the purpose of performing its functions, the Council may co-opt as members such number of persons as it thinks fit who have special knowledge and practical experience in matters relating to any commodity or trade therein and any such person shall have the right to take part in the discussions of the Council but shall not have the right to vote and shall not be a member for any other purpose.

(3) The Council may also constitute specialist committees for conducting investigations on special problems connected with its functions.

(4) In the performance of its functions under this Act, the Council shall be bound by such directions as the Central Government may give to it in writing from time to time.

**Powers
of the
Central
Govern-
ment in
regard to
quality
control
and
inspec-
tion.**

6. If the Central Government, after consulting the Council, is of opinion that it is necessary or expedient so to do for the development of the export trade of India, it may, by order published in the Official Gazette,—

(a) notify commodities which shall be subject to quality control or inspection or both prior to export;

(b) specify the type of quality control or inspection which will be applied to a notified commodity;

Not Corrected: See India Code

(c) establish, adopt or recognise one or more standard specifications for a notified commodity;

(d) prohibit the export in the course of international trade of a notified commodity unless it is accompanied by a certificate issued under section 7 that the commodity satisfies the conditions relating to quality control or inspection, or it has affixed or applied to it a mark or seal recognised by the Central Government as indicating that it conforms to the standard specifications applicable to it under clause (c).

7. (1) The Central Government may, by notification in the Official Gazette, establish, or recognise subject to such conditions as it may deem fit, agencies for quality control or inspection or both:

Machinery
for quality
control and
inspection.

Provided that if the Central Government is of opinion that any recognition granted to any agency under this sub-section should, in the public interest, be withdrawn, the Central Government may, after giving a reasonable opportunity to that agency to make representations in the matter, withdraw, by like notification, the recognition granted to it.

(2) Any agency referred to in sub-section (1) may, on application made to it or otherwise, hold or cause to be held such examination as it thinks fit relating to quality control or inspection of notified commodities, either at the time of export or earlier, in such testing houses or by such surveyors or samplers as are approved by the Central Government in this behalf and may charge such fees as may be prescribed for the purpose of such examination.

(3) If, after the examination, the agency is of opinion that the commodity satisfies the standard specifications laid down in respect of it under section 6 or, as the case may be, any other specifications stipulated in the export contract, it may issue a certificate that the commodity satisfies the conditions relating to quality control and inspection.

(4) Any person aggrieved by the refusal of any agency referred to in sub-section (1) to issue a certificate may prefer an appeal within such time as may be prescribed to such authority as the Central Government may, by notification in the Official Gazette, constitute for the purpose of hearing appeals.

(5) Subject to the provisions of sub-section (6), the decision of the agency where no appeal is filed, and the decision of the appellate authority where an appeal is filed, shall be final and shall not be questioned in any court of law.

(6) The Central Government may, at any time, call for and examine the record of any proceeding relating to any decision of an agency or appellate authority under this section for the purpose of satisfying itself as to the legality or propriety of such decision and may pass such order thereon as it thinks fit.

Power to recognise or establish marks to denote conformity with standard specifications.

8. (1) The Central Government may, by notification in the Official Gazette, recognise or establish any mark or seal in relation to a notified commodity for the purpose of denoting that such commodity conforms to a standard specification applicable to it.

(2) Any such mark or seal affixed or applied to a notified commodity or to any covering containing, or label attached to, such commodity shall be deemed to be evidence of the commodity being in conformity with the standard specifications applicable to it under this Act:

Provided that nothing in this sub-section shall prevent any officer of customs from examining any consignment of a notified commodity intended for export if he has reason to believe that the seal or mark is not genuine or has been affixed or applied fraudulently or if such an examination is necessary for the purpose of any other law for the time being in force.

Power to obtain information from exporters, etc.

9. The Central Government or any officer or authority authorised by it in this behalf may, by notice published in the Official Gazette, require—

(i) persons manufacturing, dealing in or exporting notified commodities; and

(ii) such other persons as may be prescribed,

to furnish any information, return or report which the Central Government or such officer or authority may consider necessary for carrying out the purposes of this Act.

Finance, accounts and audit.

10. (1) For the purpose of enabling the Council to discharge its functions under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Council such sums of money as that Government considers necessary by way of grants, loans or otherwise.

(2) For the purpose of discharging its functions under this Act, the Council may receive grants or donations from bodies and institutions approved by the Central Government in this behalf.

Not Corrected: See India Code

[OF 1963] *Export (Quality Control Inspection)*

211

(3) The Council shall have its own fund to which shall be credited the sums of money referred to in sub-sections (1) and (2) and the moneys in the fund shall be applied for—

(a) meeting the pay and allowances of the officers and other employees of the Council and other administrative expenses of the Council;

(b) carrying out the functions of the Council under this Act.

(4) The Council shall prepare, before the commencement of each financial year, a statement of programme of its activities during that year as well as a financial estimate in respect thereof.

(5) A statement prepared under sub-section (4) shall, not later than three months before the commencement of each financial year, be submitted for approval to the Central Government.

(6) The Council shall maintain such accounts and prepare the balance-sheet in such form as may, in consultation with the Comptroller and Auditor-General of India, be prescribed.

(7) The accounts of the Council shall be audited in such manner and at such times as may, in consultation with the Comptroller and Auditor-General of India, be prescribed.

11. (1) If any person contravenes any order under clause (d) **Penalty.** of section 6, or fraudulently obtains a certificate under section 7, or fraudulently affixes or applies any such mark or seal as is referred to in sub-section (1) of section 8, he shall, on conviction, be punishable—

(i) for the first offence, with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both;

(ii) for the second or subsequent offence, with imprisonment for a term which may extend to two years and also with fine which may extend to five thousand rupees and in the absence of special and adequate reasons to be mentioned in the judgment of the court, such imprisonment shall not be less than three months.

(2) Any person who attempts to commit or abets the commission of an offence punishable under sub-section (1) shall be deemed to have committed such offence.

(3) If any person contravenes or attempts to contravene or abets the contravention of any other provision of this Act or any rules or orders made thereunder, he shall be punishable with fine which may extend to one thousand rupees.

Offences
by com-
panies.

12. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.—*For the purposes of this section—

(a) "company" means a 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.

Delega-
tion of
powers.

13. The Central Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by—

(a) the Council;

(b) such officer or authority subordinate to the Central Government, or such State Government or such officer or authority subordinate to a State Government as may be specified in the direction.

Procedure
for prose-
cution.

14. No prosecution for an offence punishable under this Act shall be instituted except by or with the consent of an officer authorised by the Central Government by general or special order in this behalf.

Officers
and em-
ployees
of agency
to be
public
servants.

15. All officers and employees of the Council or of any agency established or recognised under sub-section (1) of section 7 and all surveyors, samplers and employees of testing houses, referred to in sub-section (2) of that section shall, while acting or purporting to act in pursuance of the provisions of this Act or any rule or order

Not Corrected: See India Code

[or 1963] **Export (Quality Control and Inspection)** 213

made thereunder be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860

16. (1) No suit, prosecution or other legal proceeding shall lie against the Council or any officer or employee of the Government or the Council or any agency referred to in sub-section (1) of section 7 for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

(2) No suit or other legal proceeding shall lie against the Government 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 or any rule or order made thereunder.

17. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power to make rules.

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

(a) the travelling and daily allowances payable to members of the Council, persons co-opted under sub-section (2) of section 5, and members of specialist committees referred to in sub-section (3) of that section;

(b) the functions of the Council and the procedure to be followed by it;

(c) the appointment of officers and other employees of the Council;

(d) the procedure to be followed for various types of quality control and inspection;

(e) the conditions which a testing house, surveyor or sampler should satisfy for purposes of approval by the Central Government;

(f) the fees chargeable for purposes of examination and issue of certificates under section 7;

(g) the filing of appeals under section 7 and the fees payable therefor;

(h) the manner in which the accounts of the Council shall be maintained and audited;

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

Not Corrected: See India Code

214. Export (Quality Control and Inspection) [ACT 22 OF 1963]

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

Act to
over-ride
other
enact-
ments.

18. As from the date on which a commodity is notified under clause (a) of section 6, the provisions of this Act or anything done or any action taken thereunder shall have effect in relation to that commodity notwithstanding any provisions (relating to quality control and inspection prior to the export of such commodity) contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

Rep. by Act 56 of 1974, s. 2 + Sch I

THE INDIAN EMIGRATION (AMENDMENT) ACT, 1963

NO. 23 OF 1963

[24th August, 1963]

An Act further to amend the Indian Emigration Act, 1922.

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

1. (1) This Act may be called the Indian Emigration (Amendment) Act, 1963. Short title and commencement.

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

7 of 1922. 2. Throughout the Indian Emigration Act, 1922 (hereinafter referred to as the principal Act), unless otherwise expressly stated, references after the word "port", except in the proviso to clause (cc) of sub-section (1) of section 2, the words "or airport" shall be inserted. Addition of to airport.

3. In section 1 of the principal Act, in sub-section (1), the word "Indian" shall be omitted. Amendment of section 1.

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

(i) clause (a) shall be re-lettered as clause (aa) and before the clause as so re-lettered, the following clause shall be inserted, namely:—

"(a) "conveyance" includes a vessel, a country-craft and an aircraft;";

(ii) in clause (c), after the words "by sea", the words "or by air" shall be inserted.

1-1-1964. vide Notifn. No. G.S.R. 1885, dt. 9-12-1963,
Govt. of India, Pt. II, Sec. 3 (i), p. 248

**Amendment
of section 4.**

5. In section 4 of the principal Act,—

- (i) in clause (c), after the word "vessels", the words "or aircraft" shall be inserted;
- (ii) in clause (d), after the word "voyage", the words "or journey" shall be inserted;
- (iii) in clause (f), after the words "by sea", the words "or by air" shall be inserted.

**Amendment
of section 9.**

6. In section 9 of the principal Act, in sub-section (1), for the words "such other ports" and "ports from which", the words "such other ports and such airports" and "ports and airports from which" shall respectively be substituted.

**Amendment
of section 15.**

7. In section 15 of the principal Act, after the words "such other ports", the words "and airports" shall be inserted.

**Amendment
of section 16.**

8. In section 16 of the principal Act, in sub-section (1), in clause (c), after the word "voyage", the words "or journey" shall be inserted.

**Omission of
section 22.**

9. Section 22 of the principal Act shall be omitted.

**Amendment
of section 24.**

10. In section 24 of the principal Act,—

- (i) in sub-section (2), in clause (l), after the words "emigrant ship", the words "or a journey on an aircraft" shall be inserted;

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Every rule 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 in which it is so laid or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

**Amendment
of section 25.**

11. In section 25 of the principal Act,—

- (i) in sub-section (1), for the words "with fine which may extend to fifty rupees.", the words "with imprisonment for a term

which may extend to three months, or with fine which may extend to five hundred rupees, or with both." shall be substituted;

(ii) in sub-section (2),—

(a) in clause (c), after the words "by sea", the words "or by air" shall be inserted;

(b) for the words "with fine, which may extend to five hundred rupees.", the following shall be substituted, namely:—

"with imprisonment which may extend to two years and with fine:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than six months and such fine shall not be less than one thousand rupees".

12. In section 26 of the principal Act, for the words "with imprisonment for a term which may extend to one year, or with fine, or with both", the following shall be substituted, namely:—

"with imprisonment for a term which may extend to three years and with fine:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than six months and such fine shall not be less than one thousand rupees".

13. In section 27 of the principal Act, for the words "with imprisonment for a term which may extend to six months, or with fine, which may extend to five hundred rupees, or with both.", the following shall be substituted, namely:—

"with imprisonment for a term which may extend to three years and with fine:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than six months and such fine shall not be less than one thousand rupees".

14. After section 27 of the principal Act, the following sections shall be inserted, namely:—

"27A. In the event of a second or subsequent offence under any of the following provisions, namely, sub-section (1) or sub-section (2) of section 25, section 26, section 27 or sub-section (4) of section 30A, a person shall be punishable with imprisonment which may extend to four years and with fine:

Amendment
of section 26.

Amendment
of section 27.

Insertion
of sections
27A, 27B
and 27C.
Punishment
for second
or subsequent
offences.

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than nine months and such fine shall not be less than one thousand rupees.

Confiscation
of conveyance
used for
committing
offence
against Act.

Confiscation
how ordered.

27B. In any case in which an offence has been committed against this Act, any conveyance used in the commission of such offence shall be liable to confiscation.

27C. (1) When the offender is convicted or when the person charged with an offence against this Act is discharged or acquitted, and the court decides that any conveyance is liable to confiscation, such confiscation may be ordered by the court.

(2) When an offence against this Act has been committed but the offender is not known or cannot be found and any conveyance is used in the commission of such offence, or when any conveyance liable to confiscation under this Act and not in the possession of any person cannot be satisfactorily accounted for, the case shall be enquired into and determined by such officer as may be authorised by the Central Government in this behalf, who may on seizure thereof, order such confiscation:

Provided that no such order of confiscation shall be made until the expiration of thirty days from the date of seizure of the conveyance intended to be confiscated or without hearing the persons, if any, claiming any right thereto and evidence, if any, which they produce in support of their claims."

Amendment
of section 29.

15. In section 29 of the principal Act,—

(i) for the words "officers of sea-customs", the words "officers of customs" shall be substituted;

(ii) after the word "vessels", the words "or aircraft or any other conveyance" shall be inserted.

Amendment
of section
30A.

16. In section 30A of the principal Act,—

(i) in sub-section (1), after the words "by sea", the words "or by air" shall be inserted;

(ii) in sub-section (4), for the words, brackets and figures "sub-section (1) of section 25", the words, brackets and figures "sub-section (2) of section 25" shall be substituted.

Amend-
ment of
section
31.

17. In section 31 of the principal Act,—

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

"(i) any person who is not a citizen of India, or";

(ii) in clause (ii), for the words and figures "the Indian Army Act, 1911", the words and figures "the Air Force Act, 1950 or the Army Act, 1950 or the Navy Act, 1957" shall be substituted.

8 of 1911.
45 of 1950.
46 of 1950.
62 of 1957.

Rep by Acts 6 of 1974, s. 2 + sch I

THE IRON ORE MINES LABOUR WELFARE CESS
(AMENDMENT) ACT, 1963

No. 24 OF 1963

[24th August, 1963]

An Act to amend the Iron Ore Mines Labour Welfare Cess Act, 1961.

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

Short title. 1. This Act may be called the Iron Ore Mines Labour Welfare Cess (Amendment) Act, 1963.

Amendment of section I. 2. In section 1 of the Iron Ore Mines Labour Welfare Cess Act, 1961, for sub-section (3), the following sub-section shall be substituted, namely:—^{58 of 1961,}

“(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different States.”

THE APPROPRIATION (No. 4) ACT, 1963

No: 25 OF 1963

[31st August, 1963]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 1963-64.

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

1. This Act may be called the Appropriation (No. 4) Act, 1963. Short title.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of thirty-three crores, ninety lakhs and thirty-six thousand rupees towards defraining the several charges which will come in course of payment during the financial year 1963-64, in respect of the services specified in column 2 of the Schedule.

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

THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
5	Other Revenue Expenditure of the Ministry of Commerce and Industry . . .	Rs. 6,80,00,000	Rs. ..	Rs. 6,80,00,000
9	Defence Services—Effective	61,000	61,000
16	Other Revenue Expenditure of the Ministry of Education	2,000	2,000
38	Grants-in-aid to States . . .	14,77,50,000	..	14,77,50,000
50	Ministry of Home Affairs	6,000	6,000
56	Statistics . . .	1,15,000	..	1,15,000
70	Other Revenue Expenditure of the Ministry of Irrigation and Power . . .	1,000	..	1,000
94	Mercantile Marine	1,000	1,000
113	Capital Outlay of the Ministry of Commerce and Industry . . .	40,00,000	..	40,00,000
126	Loans and Advances by the Central Government . . .	11,64,00,000	..	11,64,00,000
131	Capital Outlay of the Ministry of Home Affairs . . .	2,00,000	..	2,00,000
136	Capital Outlay of the Ministry of Mines and Fuel . . .	25,00,000	..	25,00,000
TOTAL . . .		33,89,66,000	70,000	33,90,36,000

Rep. by Act 56 of 1974, S. 2 + Sch I

THE CODE OF CIVIL PROCEDURE (AMENDMENT)
ACT, 1963
No. 26 OF 1963

[4th September, 1963]

An Act further to amend the Code of Civil Procedure, 1908.

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

1. (1) This Act may be called the Code of Civil Procedure Short title
(Amendment) Act, 1963. and com-
mencement.

(2) Section 2 shall come into force at once, and section 3 shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

5 of 1908. 2. In section 60 of the Code of Civil Procedure, 1908 (hereinafter referred to as the principal Act), in clause (i) of the proviso to sub-section (1), for the words "the first hundred rupees", the words "the first two hundred rupees" shall be substituted. Amend-
ment of
section 60.

3. In section 80 of the principal Act,—

(a) for the words "shall be instituted against the Government", the words and brackets "shall be instituted against the Government (including the Government of the State of Jammu and Kashmir)" shall be substituted;

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

"(bb) in the case of a suit against the Government of the State of Jammu and Kashmir, the Chief Secretary to that Government or any other officer authorised by that Government in this behalf;"

(c) in clause (c), for the words "a State Government", the words "any other State Government" shall be substituted.

5-6-1964: vide Notfn. No. S.O. 1996, dt. 4-6-1964,
Govt. of India, Ex- Pt. II, Sec. 3 (b), p. 441

Rep. by Act 56 of 1974, s. 2 & sch I

THE ALL-INDIA SERVICES (AMENDMENT)
ACT, 1963

No. 27 OF 1963

[6th September, 1963]

An Act further to amend the All-India Services Act, 1951.

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

Short title. 1. This Act may be called the All-India Services (Amendment) Act, 1963.

Amend-
ment of
section 2. 2. In section 2 of the All-India Services Act, 1951 (hereinafter referred to as the principal Act), after the words "the Indian Police Service", the words, figure and letter "or any other service specified in section 2A" shall be inserted.

Insertion
of new
section 2A. 3. After section 2 of the principal Act, the following section shall be inserted, namely:—

Other All-
India
Services. "2A. With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be constituted the following All-India Services and different dates may be appointed for different services, namely:—

1. The Indian Service of Engineers (Irrigation, Power, Buildings and Roads);

2. The Indian Forest Service;

3. The Indian Medical and Health Service."

reb. by Act 56 of 1974, s. 2 & sch I

THE EMPLOYEES' PROVIDENT FUNDS (AMENDMENT)
ACT, 1963

No. 28 OF 1963

[7th September, 1963]

An Act further to amend the Employees' Provident Funds Act, 1952.

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

1. (1) This Act may be called the Employees' Provident Funds (Amendment) Act, 1963. Short title and commencement.

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

19 of 1952. 2. In section 2 of the Employees' Provident Funds Act, 1952 (hereinafter referred to as the principal Act),— Amendment of section 2.

(a) in clause (ff), the words, brackets and figure "sub-section (1) of" shall be omitted;

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

"(ia) "manufacture" or "manufacturing process" means any process for making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal;".

3. In section 5 of the principal Act, after sub-section (1), the following sub-sections shall be inserted, namely:— Amendment of section 5.

"(1A) The Fund shall vest in, and be administered by, the Central Board constituted under section 5A.

¹ 30-11-1963; vide Notification No. S.O. 3324 dated 27-11-1963, Gazette of India, Extraordinary, Pt. II, Section 3(ii), p. 817.

(IB) Subject to the provisions of this Act, a Scheme framed under sub-section (1) may provide for all or any of the matters specified in Schedule II.”.

Insertion
of new
Sections
5A, 5B, 5C,
5D and 5E.

Central
Board.

4. After section 5 of the principal Act, the following sections shall be inserted, namely:—

“5A. (1) The Central Government may, by notification in the Official Gazette, constitute, with effect from such date as may be specified therein, a Board of Trustees for the territories to which this Act extends (hereinafter in this Act referred to as the Central Board) consisting of the following persons, namely:—

(a) a Chairman to be appointed by the Central Government;

(b) not more than five persons appointed by the Central Government from amongst its officials;

(c) not more than fifteen persons representing Governments of such States as the Central Government may specify in this behalf, appointed by the Central Government;

(d) six persons representing employers of the establishments to which the Scheme applies, appointed by the Central Government after consultation with such organisations of employers as may be recognised by the Central Government in this behalf; and

(e) six persons representing employees in the establishments to which the Scheme applies, appointed by the Central Government after consultation with such organisations of employees as may be recognised by the Central Government in this behalf.

(2) The terms and conditions subject to which a member of the Central Board may be appointed and the time, place and procedure of the meetings of the Central Board shall be such as may be provided for in the Scheme.

(3) The Central Board shall administer the Fund vested in it in such manner as may be specified in the Scheme.

(4) The Central Board shall perform such other functions as it may be required to perform by or under any provisions of the Scheme.

5B. (1) The Central Government may, after consultation State Board with the Government of any State, by notification in the Official Gazette, constitute for that State a Board of Trustees (hereinafter in this Act referred to as the State Board) in such manner as may be provided for in the Scheme.

(2) A State Board shall exercise such powers and perform such duties as the Central Government may assign to it from time to time.

(3) The terms and conditions subject to which a member of a State Board may be appointed and the time, place and procedure of the meetings of a State Board shall be such as may be provided for in the Scheme.

5C. Every Board of Trustees constituted under section 5A or section 5B shall be a body corporate under the name specified in the notification constituting it, having perpetual succession and a common seal and shall by the said name sue and be sued. Board of Trustees to be body corporate.

5D. (1) The Central Government shall appoint a Central Provident Fund Commissioner who shall be the chief executive officer of the Central Board and shall be subject to the general control and superintendence of that Board. Appointment of officers.

(2) The Central Government may also appoint as many Deputy Provident Fund Commissioners, Regional Provident Fund Commissioners and other officers whose maximum monthly salary is not less than five hundred rupees, as it may consider necessary to assist the Central Provident Fund Commissioner in the discharge of his duties.

(3) The Central Board may appoint such other officers and employees as it may consider necessary for the efficient administration of the Scheme.

(4) No appointment to the post of the Central Provident Fund Commissioner or Deputy Provident Fund Commissioner or Regional Provident Fund Commissioner or to any other post under the Central Board carrying a maximum monthly salary of not less than five hundred rupees shall be made except after consultation with the Union Public Service Commission:

Provided that no such consultation shall be necessary in regard to any such appointment—

(a) for a period not exceeding one year; or

(b) if the person to be appointed is at the time of his appointment—

(i) a member of the Indian Administrative Service, or

(ii) in the service of the Central Government or a State Government or the Central Board in a Class I or Class II post.

(5) A State Board may, with the approval of the State Government concerned, appoint such staff as it may consider necessary.

(6) The method of recruitment, salary and allowances, discipline and other conditions of service of the Central Provident Fund Commissioner, Deputy Provident Fund Commissioner and Regional Provident Fund Commissioner shall be such as may be specified by the Central Government and such salary and allowances shall be paid out of the Fund.

(7) The method of recruitment, salary and allowances, discipline and other conditions of service of the other officers and employees of the Central Board shall be such as may be specified by the Central Board with the approval of the Central Government.

(8) The method of recruitment, salary and allowances, discipline and other conditions of service of officers and employees of a State Board shall be such as may be specified by that Board, with the approval of the State Government concerned.

Delegation.

5E. The Central Board may, with the prior approval of the Central Government and a State Board may, with the prior approval of the State Government concerned, delegate to its chairman or to any of its officers, subject to such conditions and limitations, if any, as it may specify, such of its powers and functions under this Act as it may deem necessary for the efficient administration of the Scheme."

Amendment
of section 6.

5. In section 6 of the principal Act,—

(a) the brackets and figure "(1)" and sub-sections (2) and (3) shall be omitted;

(b) after the words "each of the employees", the brackets and words "(whether employed by him directly or by or through a contractor)" shall be inserted;

(c) for the word "sub-section" wherever it occurs, the word "section" shall be substituted.

6. After section 7 of the principal Act, the following section shall be inserted, namely:—

"7A. (1) The Central Provident Fund Commissioner, any Deputy Provident Fund Commissioner or any Regional Provident Fund Commissioner may, by order, determine the amount due from any employer under any provision of this Act or of the Scheme and for this purpose may conduct such inquiry as he may deem necessary.

(2) The officer conducting the inquiry under sub-section (1) shall, for the purposes of such inquiry, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, for trying a suit in respect of the following matters, namely:—

(a) enforcing the attendance of any person or examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavit;

(d) issuing commissions for the examination of witnesses;

and any such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code.

(3) No order determining the amount due from any employer shall be made under sub-section (1), unless the employer is given a reasonable opportunity of representing his case.

(4) An order made under this section shall be final and shall not be questioned in any court of law."

7. In section 8 of the principal Act, in clause (a), after the word and figures "section 15", the words, brackets and figures "or under sub-section (5) of section 17" shall be inserted.

8. After section 8 of the principal Act, the following section shall be inserted, namely:—

"8A. (1) The amount of contribution (that is to say the employer's contribution as well as the employee's contribution), and any charges on the basis of such contribution for meeting the cost of administering the Fund paid or payable by an

Insertion of new section 7A.

Determination of moneys due from employers.

Amendment of section 8.

Insertion of new section 8A.

Recovery of monies by employers and contractors.

employer in respect of an employee employed by or through a contractor may be recovered by such employer from the contractor, either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

(2) A contractor from whom the amounts mentioned in sub-section (1) may be recovered in respect of any employee employed by or through him, may recover from such employee the employee's contribution by deduction from the basic wages, dearness allowance and retaining allowance (if any) payable to such employee.

(3) Notwithstanding any contract to the contrary, no contractor shall be entitled to deduct the employer's contribution or the charges referred to in sub-section (1) from the basic wages, dearness allowance, and retaining allowance (if any) payable to an employee employed by or through him or otherwise to recover such contribution or charges from such employee.

Explanation.—In this section, the expressions, "dearness allowance" and "retaining allowance" shall have the same meanings as in section 6.'

Amend-
ment of
section 13.

9. In section 13 of the principal Act,—

(a) in sub-section (2)—

(i) in clause (a), after the word "employer", the words "or any contractor from whom any amount is recoverable under section 8A" shall be inserted;

(ii) in clause (b), for the word "enter", the words "and with such assistance, if any, as he may think fit, enter and search" shall be substituted;

(iii) in clause (c), after the word "employer", the words "or any contractor from whom any amount is recoverable under section 8A" shall be inserted;

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

"(d) make copies of, or take extracts from, any book, register or other document maintained in relation to the establishment and, where he has reason to believe that any offence under this Act has been com-

mitted by an employer, seize with such assistance as he may think fit, such book, register or other document or portions thereof as he may consider relevant in respect of that offence;";

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

5 of 1898.

"(2A) The provisions of the Code of Criminal Procedure, 1898 shall, so far as may be, apply to any search or seizure under sub-section (2) as they apply to any search or seizure made under the authority of a warrant issued under section 98 of the said Code."

10. In section 14B of the principal Act, after the word and figures "section 15", the words, brackets and figures "or sub-section (5) of section 14B." of section 17" shall be inserted.

11. In section 17 of the principal Act,—

Amendment of section 17.

(a) in sub-section (1), the *Explanation* shall be omitted;

(b) for sub-section (3), the following sub-sections shall be substituted, namely:—

"(3) Where in respect of any person or class of persons employed in an establishment an exemption is granted under this section from the operation of all or any of the provisions of any Scheme (whether such exemption has been granted to the establishment wherein such person or class of persons is employed or to the person or class of persons as such), the employer in relation to such establishment—

(a) shall, in relation to the provident fund, pension and gratuity to which any such person or class of persons is entitled, maintain such accounts, submit such returns, make such investment, provide for such facilities for inspection and pay such inspection charges, as the Central Government may direct;

(b) shall not, at any time after the exemption, without the leave of the Central Government, reduce the total quantum of benefits in the nature of pension, gratuity or provident fund to which any such person or class of persons was entitled at the time of the exemption; and

(c) shall, where any such person leaves his employment and obtains re-employment in another establishment to which this Act applies, transfer within such

time as may be specified in this behalf by the Central Government, the amount of accumulations to the credit of that person in the provident fund of the establishment left by him to the credit of that person's account in the provident fund of the establishment in which he is re-employed or, as the case may be, in the Fund established under the Scheme applicable to the establishment.

(4) Any exemption granted under this section may be cancelled by the authority which granted it, by order in writing, if an employer fails to comply,—

(a) in the case of an exemption granted under sub-section (1), with any of the conditions imposed under that sub-section or with any of the provisions of sub-section (3); and

(b) in the case of an exemption granted under sub-section (2), with any of the provisions of sub-section (3).

(5) Where any exemption granted under sub-section (1) or sub-section (2) is cancelled, the amount of accumulations to the credit of every employee to whom such exemption applied, in the provident fund of the establishment in which he is employed shall be transferred, within such time as may be specified in the scheme, to the credit of his account in the Fund.”

Insertion of
new section
17A.

12. After section 17 of the principal Act, the following section shall be inserted, namely:—

Transfer of
accounts.

“17A. (1) Where an employee employed in an establishment to which this Act applies leaves his employment and obtains re-employment in another establishment to which this Act does not apply, the amount of accumulations to the credit of such employee in the Fund, or as the case may be, in the provident fund of the establishment left by him shall be transferred, within such time as may be specified by the Central Government in this behalf, to the credit of his account in the provident fund of the establishment in which he is re-employed, if the employee so desires and the rules in relation to that provident fund permit such transfer.

(2) Where an employee employed in an establishment to which this Act does not apply leaves his employment and obtains re-employment in another establishment to which this Act applies, the amount of accumulations to the credit of such

employee in the provident fund of the establishment left by him may, if the employee so desires and the rules in relation to such provident fund permit, be transferred to the credit of his account in the Fund or as the case may be, in the provident fund of the establishment in which he is re-employed.”.

13. In Schedule II to the principal Act,—

Amend-
ment of
Schedule
II.

(a) for the brackets, words and figures “[See section 6(2)]”, the brackets, words, figures and letter “[See section 5(1B)]” shall be substituted;

(b) in item (2),—

(i) after the word “employees”, the brackets and words “(whether employed by him directly or by or through a contractor)” shall be inserted;

(ii) the words, brackets and figure “sub-section (1) of” shall be omitted;

(c) after item 2, the following item shall be inserted, namely:—

“2A. The manner in which employees' contributions may be recovered by contractors from employees employed by or through such contractors.”;

(d) for items 4 and 5 the following items shall be substituted, namely:—

✓ 4. The constitution of any committee for assisting any Board of Trustees.

5. The opening of regional and other offices of any Board of Trustees.”;

(e) in item 11, after the word “employers”, the words “or contractors” shall be inserted;

(f) in item 18, after the words “other matter”, the words “which is to be provided for in the Scheme or” shall be inserted.

14. Until the constitution of the Central Board under section 5A Transitory provision of the principal Act as amended by this Act, the Central Board constituted under the Employees' Provident Funds Scheme, 1952 and functioning immediately before the commencement of this Act shall be deemed to be the Central Board constituted under that section and shall continue to function as if this Act had not been passed.

THE INSTITUTES OF TECHNOLOGY (AMENDMENT)
ACT, 1963

No. 29 OF 1963

[12th September, 1963]

An Act to amend the Institutes of Technology Act, 1961.

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

Short title
and com-
mence-
ment.

1. (1) This Act may be called the Institutes of Technology (Amendment) Act, 1963.

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

Amend-
ment of
section 2.

2. In section 2 of the Institutes of Technology Act, 1961 (herein after referred to as the principal Act), after the words "the Indian Institute of Technology, Bombay," the words "the College of Engineering and Technology, Delhi," shall be inserted. 59 of 1961.

Amend-
ment of
section 3.

3. In section 3 of the principal Act,—

(a) in clause (c), after sub-clause (i), the following sub-clause shall be inserted, namely:

"(ia) in relation to the society known as the College of Engineering and Technology, Delhi, the Indian Institute of Technology, Delhi;"

(b) in clause (j), after sub-clause (i), the following sub-clause shall be inserted, namely:

"(a) the College of Engineering and Technology,
Delhi;"

¹13-9-1963; vide Notification No. S.O. 2694, dated 12-9-1963, Gazette of India, Pt. II Sec. 3(ii), p. 3437.

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

“(1A) The College of Engineering and Technology, Delhi shall, on such incorporation, be called the Indian Institute of Technology, Delhi.”.

5. In sub-section (3) of section 12 of the principal Act, for the word, brackets and letter “clause (c)”, the word, brackets and letter “clause (e)” shall be, and shall be deemed always to have been, substituted.

6. In section 38 of the principal Act, in clause (b), for the words “any Academic Council constituted in relation to any Institute”, the words “the Staff Committee constituted in relation to the College of Engineering and Technology, Delhi and any Academic Council constituted in relation to any other Institute” shall be substituted.

7. Notwithstanding anything contained in the Delhi University Act, 1922, or the Statutes made thereunder, the College of Engineering and Technology, Delhi, incorporated under this Act, shall, on the commencement of this Act, cease to be an “Affiliated College” within the meaning of clause (a) of section 2 of the Delhi University Act, 1922, except as respect things done or omitted to be done before such cesser.

Rep. by Act 56 of 1974, S. 24 Sch I

THE CUSTOMS AND CENTRAL EXCISES
(AMENDMENT) ACT, 1963

No. 30 of 1963

[12th September, 1963]

An Act to amend the Customs Act, 1962 and further to amend the Central Excises and Salt Act, 1944.

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

Short title and commencement. 1. (1) This Act may be called the Customs and Central Excises (Amendment) Act, 1963.

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

Amendment of section 12 of Act 52 of 1962. 2. In section 12 of the Customs Act, 1962, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The provisions of sub-section (1) shall apply in respect of all goods belonging to Government as they apply in respect of goods not belonging to Government.”.

Amendment of section 3 of Act 1 of 1944. 3. In section 3 of the Central Excises and Salt Act, 1944, for sub-section (1A), the following sub-section shall be substituted, namely:—

“(1A) The provisions of sub-section (1) shall apply in respect of all excisable goods other than salt which are produced or manufactured in India by, or on behalf of, Government, as they apply in respect of goods which are not produced or manufactured by Government.”.

¹11-10-1963; vide Notification No. G.S.R. 1561, dated 28-9-1963, Gazette of India, Pt. II, Sec. 3(i), p. 1828.

THE APPROPRIATION (RAILWAYS) No. 5 ACT, 1963

No. 31 OF 1963

[12th September, 1963]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the service of the financial year 1963-64 for the purposes of Railways.

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

1. This Act may be called the Appropriation (Railways) No. 5 Short title. Act, 1963.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of two lakhs and fifty thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1963-64, in respect of the services relating to railways specified in column 2 of the Schedule.

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

THE SCHEDULE

(See sections 2 and 3)

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
2	Miscellaneous Expenditure	1,50,000	...	1,50,000
15	Open Line Works— Additions and Replacements.	1,00,000	...	1,00,000
	TOTAL	2,50,000	...	2,50,000

Rep by Act 56 of 1974, S.2 & Sch I

THE SPECIAL MARRIAGE (AMENDMENT) ACT, 1963

No. 32 of 1963

[22nd September, 1963]

An Act to amend the Special Marriage Act, 1954.

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

1. This Act may be called the Special Marriage (Amendment) Short title. Act, 1963.

2. In section 4 of the Special Marriage Act, 1954,—

Amendment of section 4.

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

"(d) the parties are not within the degrees of prohibited relationship;

Provided that where a custom governing at least one of the parties permits of a marriage between them, such marriage may be solemnized, notwithstanding that they are within the degrees of prohibited relationship; and";

(ii) the following *Explanation* shall be inserted at the end—

Explanation.—In this section, "custom", in relation to a person belonging to any tribe, community, group or family, means any rule which the State Government may, by notification in the Official Gazette, specify in this behalf as applicable to members of that tribe, community, group or family:

Provided that no such notification shall be issued in relation to the members of any tribe, community, group or family, unless the State Government is satisfied—

(i) that such rule has been continuously and uniformly observed for a long time among those members;

(ii) that such rule is certain and not unreasonable or opposed to public policy; and

(iii) that such rule, if applicable only to a family, has not been discontinued by the family.'

Reb. by Act 56 of 1974, S. 2 + Sch I

THE INDIAN SALE OF GOODS (AMENDMENT)
ACT, 1963

No. 33 OF 1963

[22nd September, 1963]

An Act further to amend the Indian Sale of Goods Act, 1930

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

Short title. 1. This Act may be called the Indian Sale of Goods (Amendment) Act, 1963.

Amend- 2. In section 1 of the Indian Sale of Goods Act, 1930 (hereinafter ^{of 1930.} referred to as the principal Act), in sub-section (1), the word section 1. "Indian" shall be omitted.

Amend- 3. In section 13 of the principal Act, in sub-section (2), the words
ment of section 13. "or where the contract is for specific goods the property in which has passed to the buyer," shall be omitted.

Amend- 4. In section 25 of the principal Act, for sub-sections (2) and
ment of section 25. (3), the following sub-sections shall be substituted, namely:—

(2) Where goods are shipped or delivered to a railway administration for carriage by railway and by the bill of lading or railway receipt, as the case may be, the goods are deliverable to the order of the seller or his agent, the seller is *prima facie* deemed to reserve the right of disposal.

(3) Where the seller of goods draws on the buyer for the price and transmits to the buyer the bill of exchange together with the bill of lading or, as the case may be, the railway receipt, to secure acceptance or payment of the bill of exchange, the buyer is bound to return the bill of lading or the railway receipt if he does not honour the bill of exchange; and, if he wrongfully retains the bill of lading or the railway receipt, the property in the goods does not pass to him.

9 of 1890.

Explanation.—In this section, the expressions “railway” and “railway administration” shall have the meanings respectively assigned to them under the Indian Railways Act, 1890.’

5. For section 64A of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 64A.

“64A. (1) Unless a different intention appears from the terms of the contract, in the event of any tax of the nature described in sub-section (2) being imposed, increased, decreased or remitted in respect of any goods after the making of any contract for the sale or purchase of such goods without stipulation as to the payment of tax where tax was not chargeable at the time of the making of the contract, or for the sale or purchase of such goods tax-paid where tax was chargeable at that time,—

In contracts of sale, amount of increased or decreased taxes to be added or deducted.

(a) if such imposition or increase so takes effect that the tax or increased tax, as the case may be, or any part of such tax is paid or is payable, the seller may add so much to the contract price as will be equivalent to the amount paid or payable in respect of such tax or increase of tax, and he shall be entitled to be paid and to sue for and recover such addition; and

(b) if such decrease or remission so takes effect that the decreased tax only, or no tax, as the case may be, is paid or is payable, the buyer may deduct so much from the contract price as will be equivalent to the decrease of tax or remitted tax, and he shall not be liable to pay, or be sued for, or in respect of, such deduction.

(2) The provisions of sub-section (1) apply to the following taxes, namely:—

(a) any duty of customs or excise on goods;

(b) any tax on the sale or purchase of goods.”

Rep. by Act 56 of 1974, § 2 & Sch I

THE WAREHOUSING CORPORATIONS (AMENDMENT)
ACT, 1963
No. 34 OF 1963

[22nd September, 1963]

An Act to amend the Warehousing Corporations Act, 1962.

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

Short title. 1. This Act may be called the Warehousing Corporations (Amendment) Act, 1963.

Amendment of section 3. 2. In sub-section (2) of section 3 of the Warehousing Corporations Act, 1962, after the words "at New Delhi", the words "or at such other place as the Central Government may, by notification in the Official Gazette, specify" shall be inserted.

THE DRAMATIC PERFORMANCES (DELHI REPEAL)
ACT, 1963

No. 35 OF 1963

[26th September, 1963]

An Act to provide for the repeal of the Dramatic Performances Act, 1876, in force in the Union territory of Delhi.

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

1. This Act may be called the Dramatic Performances (Delhi Short title. Repeal) Act, 1963.

Madras Act
XXXIII of
1954.
30 of 1950.
19 of 1876.

*19 of 1876.

2. On and from the date on which the Madras Dramatic Performances Act, 1954, is extended by notification under section 2 of the Union Territories (Laws) Act, 1950, to the Union territory of Delhi, the Dramatic Performances Act, 1876, as in force in the Union territory, shall stand repealed.

3. The repeal of the Dramatic Performances Act, 1876, by section 2 shall not affect—

(a) the previous operation of the said Act or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the said Act; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said Act; or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if the said Act had not been repealed.

Not Corrected. P.L.D. 1963, Vol. II A, Pt. II, p. 579

THE LIMITATION ACT, 1963

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

SECTIONS

1. Short title, extent and commencement.
2. Definitions.

PART II

LIMITATION OF SUITS, APPEALS AND APPLICATIONS

3. Bar of limitation.
4. Expiry of prescribed period when court is closed.
5. Extension of prescribed period in certain cases.
6. Legal disability.
7. Disability of one of several persons.
8. Special exceptions.
9. Continuous running of time.
10. Suits against trustees and their representatives.
11. Suits on contracts entered into outside the territories to which the Act extends.

PART III

COMPUTATION OF PERIOD OF LIMITATION

12. Exclusion of time in legal proceedings.
13. Exclusion of time in cases where leave to sue or appeal as a pauper is applied for.
14. Exclusion of time of proceeding bona fide in court without jurisdiction.
15. Exclusion of time in certain other cases.

SECTIONS

16. Effect of death on or before the accrual of the right to sue.
17. Effect of fraud or mistake.
18. Effect of acknowledgment in writing.
19. Effect of payment on account of debt or of interest on legacy.
20. Effect of acknowledgment or payment by another person.
21. Effect of substituting or adding new plaintiff or defendant.
22. Continuing breaches and torts.
23. Suits for compensation for acts not actionable without special damage.
24. Computation of time mentioned in instruments.

PART IV**ACQUISITION OF OWNERSHIP BY POSSESSION**

25. Acquisition of easements by prescription.
26. Exclusion in favour of reversioner of servient tenement.
27. Extinguishment of right to property.

PART V**MISCELLANEOUS**

28. Amendment of certain Acts.
29. Savings.
30. Provision for suits, etc., for which the prescribed period is shorter than the period prescribed by the Indian Limitation Act, 1908.
31. Provisions as to barred or pending suits, etc.
32. Repeal.

THE SCHEDULE—PERIODS OF LIMITATION.

Sect. 40 (2) of the Limitation Act, 1963
Not Corrected in the G.O. Vol. II A, Pt. II, p. 519.

THE LIMITATION ACT, 1963

No. 36 OF 1963

[5th October, 1963]

An Act to consolidate and amend the law for the limitation of suits and other proceedings and for purposes connected therewith.

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

PART I

PRELIMINARY

**Short title,
extent and
commencement.**

1. (1) This Act may be called the Limitation Act, 1963.

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

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

Definitions.

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

(a) "applicant" includes—

(i) a petitioner;

(ii) any person from or through whom an applicant derives his right to apply;

(iii) any person whose estate is represented by the applicant as executor, administrator or other representative;

(b) "application" includes a petition;

(c) "bill of exchange" includes a hundi and a cheque;

¹ 1-1-1964; vide Notification No. S.O. 3118, dated 29-10-1963, Gazette of India, Pt. II, Sec. 3(ii), p. 3918.

(d) "bond" includes any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be;

(e) "defendant" includes—

(i) any person from or through whom a defendant derives his liability to be sued;

(ii) any person whose estate is represented by the defendant as executor, administrator or other representative;

(f) "easement" includes a right not arising from contract, by which one person is entitled to remove and appropriate for his own profit any part of the soil belonging to another or anything growing in, or attached to, or subsisting upon, the land of another;

(g) "foreign country" means any country other than India;

(h) "good faith"—nothing shall be deemed to be done in good faith which is not done with due care and attention;

(i) "plaintiff" includes—

(i) any person from or through whom a plaintiff derives his right to sue;

(ii) any person whose estate is represented by the plaintiff as executor, administrator or other representative;

(j) "period of limitation" means the period of limitation prescribed for any suit, appeal or application by the Schedule, and "prescribed period" means the period of limitation computed in accordance with the provisions of this Act;

(k) "promissory note" means any instrument whereby the maker engages absolutely to pay a specified sum of money to another at a time therein limited, or on demand, or at sight;

(l) "suit" does not include an appeal or an application;

(m) "tort" means a civil wrong which is not exclusively the breach of a contract or the breach of a trust;

(n) "trustee" does not include a *benamidar*, a mortgagee remaining in possession after the mortgage has been satisfied or a person in wrongful possession without title.

PART II

LIMITATION OF SUITS, APPEALS AND APPLICATIONS

Bar of limitation.

3. (1) Subject to the provisions contained in sections 4 to 24 (inclusive), every suit instituted, appeal preferred, and application made after the prescribed period shall be dismissed, although limitation has not been set up as a defence.

(2) For the purposes of this Act,—

(a) a suit is instituted,—

(i) in an ordinary case, when the plaint is presented to the proper officer;

(ii) in the case of a pauper, when his application for leave to sue as a pauper is made; and

(iii) in the case of a claim against a company which is being wound up by the court, when the claimant first sends in his claim to the official liquidator;

(b) any claim by way of a set off or a counter claim, shall be treated as a separate suit and shall be deemed to have been instituted—

(i) in the case of a set off, on the same date as the suit in which the set off is pleaded;

(ii) in the case of a counter claim, on the date on which the counter claim is made in court;

(c) an application by notice of motion in a High Court is made when the application is presented to the proper officer of that court.

Expiry of
prescribed
period
when
court is
closed.

4. Where the prescribed period for any suit, appeal or application expires on a day when the court is closed, the suit, appeal or application may be instituted, preferred or made on the day when the court re-opens.

Explanation.—A court shall be deemed to be closed on any day within the meaning of this section if during any part of its normal working hours it remains closed on that day.

Extension
of prescribed
period in
certain cases.

5. Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.

Explanation.—The fact that the appellant or the applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of this section.

6. (1) Where a person entitled to institute a suit or make an application for the execution of a decree is, at the time from which the prescribed period is to be reckoned, a minor or insane, or an idiot, he may institute the suit or make the application within the same period after the disability has ceased, as would otherwise have been allowed from the time specified therefor in the third column of the Schedule.

Legal disability.

(2) Where such person is, at the time from which the prescribed period is to be reckoned, affected by two such disabilities, or where, before his disability has ceased, he is affected by another disability, he may institute the suit or make the application within the same period after both disabilities have ceased, as would otherwise have been allowed from the time so specified.

(3) Where the disability continues up to the death of that person, his legal representative may institute the suit or make the application within the same period after the death, as would otherwise have been allowed from the time so specified.

(4) Where the legal representative referred to in sub-section (3) is, at the date of the death of the person whom he represents, affected by any such disability, the rules contained in sub-sections (1) and (2) shall apply.

(5) Where a person under disability dies after the disability ceases but within the period allowed to him under this section, his legal representative may institute the suit or make the application within the same period after the death, as would otherwise have been available to that person had he not died.

Explanation.—For the purposes of this section, 'minor' includes a child in the womb.

7. Where one of several persons jointly entitled to institute a suit or make an application for the execution of a decree is under any such disability, and a discharge can be given without the concurrence of such person, time will run against them all; but, where no such discharge can be given, time will not run as against any of them until one of them becomes capable of giving such discharge without the concurrence of the others or until the disability has ceased.

Disability of one of several persons.

Explanation I.—This section applies to a discharge from every kind of liability, including a liability in respect of any immovable property.

Explanation II.—For the purposes of this section, the Manager of a Hindu undivided family governed by the Mitakshara law shall be deemed to be capable of giving a discharge without the concurrence of the other members of the family only if he is in management of the joint family property.

Special exceptions.

8. Nothing in section 6 or in section 7 applies to suits to enforce rights of pre-emption, or shall be deemed to extend, for more than three years from the cessation of the disability or the death of the person affected thereby, the period of limitation for any suit or application.

Continuous running of time.

9. Where once time has begun to run, no subsequent disability or inability to institute a suit or make an application stops it:

Provided that, where letters of administration to the estate of a creditor have been granted to his debtor, the running of the period of limitation for a suit to recover the debt shall be suspended while the administration continues.

Suits against trustees and their representatives.

10. Notwithstanding anything contained in the foregoing provisions of this Act, no suit against a person in whom property has become vested in trust for any specific purpose, or against his legal representatives or assigns (not being assigns for valuable consideration), for the purpose of following in his or their hands such property, or the proceeds thereof, or for an account of such property or proceeds, shall be barred by any length of time.

Explanation.—For the purposes of this section any property comprised in a Hindu, Muslim or Buddhist religious or charitable endowment shall be deemed to be property vested in trust for a specific purpose and the manager of the property shall be deemed to be the trustee thereof.

Suits on contracts entered into outside the territories to which the Act extends.

11. (1) Suits instituted in the territories to which this Act extends on contracts entered into in the State of Jammu and Kashmir or in a foreign country shall be subject to the rules of limitation contained in this Act.

(2) No rule of limitation in force in the State of Jammu and Kashmir or in a foreign country shall be a defence to a suit instituted in the said territories on a contract entered into in that State or in a foreign country unless—

(a) the rule has extinguished the contract; and

(b) the parties were domiciled in that State or in the foreign country during the period prescribed by such rule.

Not Corrected: See India Code

of 1963]

Limitation

251

PART III

COMPUTATION OF PERIOD OF LIMITATION

12. (1) In computing the period of limitation for any suit, appeal or application, the day from which such period is to be reckoned, shall be excluded.

(2) In computing the period of limitation for an appeal or an application for leave to appeal or for revision or for review of a judgment, the day on which the judgment complained of was pronounced and the time requisite for obtaining a copy of the decree, sentence or order appealed from or sought to be revised or reviewed shall be excluded.

(3) Where a decree or order is appealed from or sought to be revised or reviewed, or where an application is made for leave to appeal from a decree or order, the time requisite for obtaining a copy of the judgment on which the decree or order is founded shall also be excluded.

(4) In computing the period of limitation for an application to set aside an award, the time requisite for obtaining a copy of the award shall be excluded.

Explanation.—In computing under this section the time requisite for obtaining a copy of a decree or an order, any time taken by the court to prepare the decree or order before an application for a copy thereof is made shall not be excluded.

13. In computing the period of limitation prescribed for any suit or appeal in any case where an application for leave to sue or appeal as a pauper has been made and rejected, the time during which the applicant has been prosecuting in good faith his application for such leave shall be excluded, and the court may, on payment of the court fees prescribed for such suit or appeal, treat the suit or appeal as having the same force and effect as if the court fees had been paid in the first instance.

14. (1) In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the defendant shall be excluded, where the proceeding relates to the same matter in issue and is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(2) In computing the period of limitation for any application, the time during which the applicant has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the same party for the same relief

shall be excluded, where such proceeding is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(3) Notwithstanding anything contained in rule 2 of Order XXIII of the Code of Civil Procedure, 1908, the provisions of sub-section 5 of 1908.

(1) shall apply in relation to a fresh suit instituted on permission granted by the court under rule 1 of that Order, where such permission is granted on the ground that the first suit must fail by reason of a defect in the jurisdiction of the court or other cause of a like nature.

Explanation.—For the purposes of this section,—

(a) in excluding the time during which a former civil proceeding was pending, the day on which that proceeding was instituted and the day on which it ended shall both be counted;

(b) a plaintiff or an applicant resisting an appeal shall be deemed to be prosecuting a proceeding;

(c) misjoinder of parties or of causes of action shall be deemed to be a cause of a like nature with defect of jurisdiction.

**Exclusion
of time in
certain
other cases.**

15. (1) In computing the period of limitation for any suit or application for the execution of a decree, the institution or execution of which has been stayed by injunction or order, the time of the continuance of the injunction or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded.

(2) In computing the period of limitation for any suit of which notice has been given, or for which the previous consent or sanction of the Government or any other authority is required, in accordance with the requirements of any law for the time being in force, the period of such notice or, as the case may be, the time required for obtaining such consent or sanction shall be excluded.

Explanation.—In excluding the time required for obtaining the consent or sanction of the Government or any other authority, the date on which the application was made for obtaining the consent or sanction and the date of receipt of the order of the Government or other authority shall both be counted.

(3) In computing the period of limitation for any suit or application for execution of a decree by any receiver or *interim* receiver appointed in proceedings for the adjudication of a person as an insolvent or by any liquidator or provisional liquidator appointed in proceedings for the winding up of a company, the period beginning with the date of institution of such proceeding and ending with the expiry of three months from the date of appointment of such receiver or liquidator, as the case may be, shall be excluded.

(4) In computing the period of limitation for a suit for possession by a purchaser at a sale in execution of a decree, the time during which a proceeding to set aside the sale has been prosecuted shall be excluded.

(5) In computing the period of limitation for any suit the time during which the defendant has been absent from India and from the territories outside India under the administration of the Central Government, shall be excluded.

16. (1) Where a person who would, if he were living, have a right to institute a suit or make an application dies before the right accrues, or where a right to institute a suit or make an application accrues only on the death of a person, the period of limitation shall be computed from the time when there is a legal representative of the deceased capable of instituting such suit or making such application.

(2) Where a person against whom, if he were living, a right to institute a suit or make an application would have accrued dies before the right accrues, or where a right to institute a suit or make an application against any person accrues on the death of such person, the period of limitation shall be computed from the time when there is a legal representative of the deceased against whom the plaintiff may institute such suit or make such application.

(3) Nothing in sub-section (1), or sub-section (2) applies to suits to enforce rights of pre-emption or to suits for the possession of immovable property or of a hereditary office.

17. (1) Where, in the case of any suit or application for which a period of limitation is prescribed by this Act,—

(a) the suit or application is based upon the fraud of the defendant or respondent or his agent; or

(b) the knowledge of the right or title on which a suit or application is founded is concealed by the fraud of any such person as aforesaid; or

(c) the suit or application is for relief from the consequences of a mistake; or

(d) where any document necessary to establish the right of the plaintiff or applicant has been fraudulently concealed from him;

the period of limitation shall not begin to run until the plaintiff or applicant has discovered the fraud or the mistake or could, with reasonable diligence, have discovered it; or in the case of a concealed document, until the plaintiff or the applicant first had the means of producing the concealed document or compelling its production:

Provided that nothing in this section shall enable any suit to be instituted or application to be made to recover or enforce any charge against, or set aside any transaction affecting, any property which—

(i) in the case of fraud, has been purchased for valuable consideration by a person who was not a party to the fraud and did not at the time of the purchase know, or have reason to believe, that any fraud had been committed, or

(ii) in the case of mistake, has been purchased for valuable consideration subsequently to the transaction in which the mistake was made, by a person who did not know, or have reason to believe, that the mistake had been made, or

(iii) in the case of a concealed document, has been purchased for valuable consideration by a person who was not a party to the concealment and, did not at the time of purchase know, or have reason to believe, that the document had been concealed.

(2) Where a judgment-debtor has, by fraud or force, prevented the execution of a decree or order within the period of limitation, the court may, on the application of the judgment-creditor made after the expiry of the said period extend the period for execution of the decree or order:

Provided that such application is made within one year from the date of the discovery of the fraud or the cessation of force, as the case may be.

Effect of acknowledgment in writing.

18. (1) Where, before the expiration of the prescribed period for a suit or application in respect of any property or right, an acknowledgment of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by any person through whom he derives his title or liability, a fresh period of limitation shall be computed from the time when the acknowledgment was so signed.

(2) Where the writing containing the acknowledgment is undated, oral evidence may be given of the time when it was signed; but subject to the provisions of the Indian Evidence Act, 1872, oral evidence of its contents shall not be received.

Explanation.—For the purposes of this section,—

(a) an acknowledgment may be sufficient though it omits to specify the exact nature of the property or right, or avers that the time for payment, delivery, performance or enjoyment has not yet come or is accompanied by a refusal to pay, deliver,

perform or permit to enjoy, or is coupled with a claim to set-off, or is addressed to a person other than a person entitled to the property or right,

(b) the word "signed" means signed either personally or by an agent duly authorised in this behalf, and

(c) an application for the execution of a decree or order shall not be deemed to be an application in respect of any property or right.

19. Where payment on account of a debt or of interest on a legacy is made before the expiration of the prescribed period by the person liable to pay the debt or legacy or by his agent duly authorised in this behalf, a fresh period of limitation shall be computed from the time when the payment was made:

Provided that, save in the case of payment of interest made before the 1st day of January, 1928, an acknowledgment of the payment appears in the handwriting of, or in a writing signed by, the person making the payment.

*Explanation.—*For the purposes of this section,—

(a) where mortgaged land is in the possession of the mortgagee, the receipt of the rent or produce of such land shall be deemed to be a payment;

(b) "debt" does not include money payable under a decree or order of a court.

20. (1) The expression "agent duly authorised in this behalf" in sections 18 and 19 shall, in the case of a person under disability, include his lawful guardian, committee or manager or an agent duly authorised by such guardian, committee or manager to sign the acknowledgment or make the payment.

(2) Nothing in the said sections renders one of several joint contractors, partners, executors or mortgagees chargeable by reason only of a written acknowledgment signed by, or of a payment made by, or by the agent of, any other or others of them.

(3) For the purposes of the said sections,—

(a) an acknowledgment signed or a payment made in respect of any liability by, or by the duly authorised agent of, any limited owner of property who is governed by Hindu law, shall be a valid acknowledgment or payment, as the case may be, against a reversioner succeeding to such liability; and

(b) where a liability has been incurred by, or on behalf of a Hindu undivided family as such, an acknowledgment or

payment made by, or by the duly authorised agent of, the manager of the family for the time being shall be deemed to have been made on behalf of the whole family.

Effect of substituting or adding new plaintiff or defendant.

21. (1) Where after the institution of a suit, a new plaintiff or defendant is substituted or added, the suit shall, as regards him, be deemed to have been instituted when he was so made a party:

Provided that where the court is satisfied that the omission to include a new plaintiff or defendant was due to a mistake made in good faith it may direct that the suit as regards such plaintiff or defendant shall be deemed to have been instituted on any earlier date.

(2) Nothing in sub-section (1) shall apply to a case where a party is added or substituted owing to assignment or devolution of any interest during the pendency of a suit or where a plaintiff is made a defendant or a defendant is made a plaintiff.

Continuing breaches and torts.

22. In the case of a continuing breach of contract or in the case of a continuing tort, a fresh period of limitation begins to run at every moment of the time during which the breach or the tort, as the case may be, continues.

Suits for compensation for acts not actionable without special damage.

23. In the case of a suit for compensation for an act which does not give rise to a cause of action unless some specific injury actually results therefrom, the period of limitation shall be computed from the time when the injury results.

Computation of time mentioned in instruments.

24. All instruments shall for the purposes of this Act be deemed to be made with reference to the Gregorian calendar.

PART IV

ACQUISITION OF OWNERSHIP BY POSSESSION

Acquisition of easements by prescription.

25. (1) Where the access and use of light or air to and for any building have been peaceably enjoyed therewith as an easement, and as of right, without interruption, and for twenty years, and where any way or watercourse or the use of any water or any other easement (whether affirmative or negative) has been peaceably and openly enjoyed by any person claiming title thereto as an easement and as of right without interruption and for twenty years, the right to such access and use of light or air, way, watercourse, use of water, or other easement shall be absolute and indefeasible.

(2) Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

(3) Where the property over which a right is claimed under sub-section (1) belongs to the Government that sub-section shall be read as if for the words "twenty years" the words "thirty years" were substituted.

Explanation.—Nothing is an interruption within the meaning of this section, unless where there is an actual discontinuance of the possession or enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to or acquiesced in for one year after the claimant has notice thereof and of the person making or authorising the same to be made.

26. Where any land or water upon, over or from, which any easement has been enjoyed or derived has been held under or by virtue of any interest for life or in terms of years exceeding three years from the granting thereof, the time of the enjoyment of such easement during the continuance of such interest or term shall be excluded in the computation of the period of twenty years in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled on such determination to the said land or water.

27. At the determination of the period hereby limited to any person for instituting a suit for possession of any property, his right to such property shall be extinguished.

Exclusion
in favour
of rever-
sioner
of servient
tenement.

PART V

MISCELLANEOUS

5 of 1882.

28. In the Indian Easements Act, 1882, in section 15, for the words "sixty years", the words "thirty years" shall be substituted; and in the Code of Civil Procedure, 1908, section 48 shall be omitted.

Amendment
of certain
Acts.

5 of 1908.

29. (1) Nothing in this Act shall affect section 25 of the Indian Savings Contract Act, 1872.

9 of 1872.

(2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of section 3 shall apply as

if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in sections 4 to 24 (inclusive) shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law.

(3) Save as otherwise provided in any law for the time being in force with respect to marriage and divorce, nothing in this Act shall apply to any suit or other proceeding under any such law.

(4) Sections 25 and 26 and the definition of "easement" in section 2 shall not apply to cases arising in the territories to which the Indian Easements Act, 1882, may for the time being extend.

5 of 1882.

Provision
for suits, etc.,
for which
the pres-
cribed
period is
shorter
than the
period
prescribed
by the
Indian
Limitation
Act, 1908.

30. Notwithstanding anything contained in this Act,—

(a) any suit for which the period of limitation is shorter than the period of limitation prescribed by the Indian Limitation Act, 1908, may be instituted within a period of five years next after the commencement of this Act or within the period prescribed for such suit by the Indian Limitation Act, 1908, whichever period expires earlier;

9 of 1908.

(b) any appeal or application for which the period of limitation is shorter than the period of limitation prescribed by the Indian Limitation Act, 1908, may be preferred or made within a period of ninety days next after the commencement of this Act or within the period prescribed for such appeal or application by the Indian Limitation Act, 1908, whichever period expires earlier.

Provisions
as to barred
or pending
suits, etc.

31. Nothing in this Act shall,—

(a) enable any suit, appeal or application to be instituted, preferred or made, for which the period of limitation prescribed by the Indian Limitation Act, 1908, expired before the commencement of this Act; or

9 of 1908.

(b) affect any suit, appeal or application instituted, preferred or made before, and pending at, such commencement.

Repeal.

32. The Indian Limitation Act, 1908, is hereby repealed.

9 of 1908.

THE SCHEDULE

(PERIODS OF LIMITATION)

[See sections 2(j) and 3]

FIRST DIVISION—SUITS

Description of suit	Period of limitation	Time from which period begins to run
---------------------	----------------------	--------------------------------------

PART I.—SUITS RELATING TO ACCOUNTS

1 For the balance due on a mutual, open and current account, where there have been reciprocal demands between the parties.	Three years . . .	The close of the year in which the last item admitted or proved is entered in the account; such year to be computed as in the account.
2 Against a factor for an account.	Three years . . .	When the account is, during the continuance of the agency, demanded and refused or, where no such demand is made, when the agency terminates.
3 By a principal against his agent for movable property received by the latter and not accounted for.	Three years . . .	When the account is, during the continuance of the agency, demanded and refused or, where no such demand is made, when the agency terminates.
4 Other suits by principals against agents for neglect or misconduct.	Three years . . .	When the neglect or misconduct becomes known to the plaintiff.
5 For an account and a share of the profits of a dissolved partnership.	Three years . . .	The date of the dissolution.

PART II.—SUITS RELATING TO CONTRACTS

6 For a seaman's wages . . .	Three years . . .	The end of the voyage during which the wages are earned.
7 For wages in the case of any other person.	Three years . . .	When the wages accrue due.
8 For the price of food or drink sold by the keeper of a hotel, tavern or lodging-house.	Three years . . .	When the food or drink is delivered.
9 For the price of lodging . . .	Three years . . .	When the price becomes payable.

Description of suit	Period of limitation	Time from which period begins to run
10 Against a carrier for compensation for losing or injuring goods.	Three years.	When the loss or injury occurs.
11 Against a carrier for compensation for non-delivery of, or delay in delivering, goods.	Three years.	When the goods ought to be delivered.
12 For the hire of animals, vehicles, boats or household furniture.	Three years.	When the hire becomes payable.
13 For the balance of money advanced in payment of goods to be delivered.	Three years.	When the goods ought to be delivered.
14 For the price of goods sold and delivered where no fixed period of credit is agreed upon.	Three years.	The date of the delivery of the goods.
15 For the price of goods sold and delivered to be paid for after the expiry of a fixed period of credit.	Three years.	When the period of credit expires.
16 For the price of goods sold and delivered to be paid for by a bill of exchange, no such bill being given.	Three years.	When the period of the proposed bill elapses.
17 For the price of trees or growing crops sold by the plaintiff to the defendant where no fixed period of credit is agreed upon.	Three years.	The date of the sale.
18 For the price of work done by the plaintiff for the defendant at his request, where no time has been fixed for payment.	Three years.	When the work is done.
19 For money payable for money lent.	Three years.	When the loan is made.
20 Like suit when the lender has given a cheque for the money.	Three years.	When the cheque is paid.
21 For money lent under an agreement that it shall be payable on demand.	Three years.	When the loan is made.
22 For money deposited under an agreement that it shall be payable on demand, including money of a customer in the hands of his banker so payable.	Three years.	When the demand is made.

Description of suit	Period of limitation	Time from which period begins to run
23 For money payable to the plaintiff for money paid for the defendant.	Three years.	When the money is paid.
24 For money payable by the defendant to the plaintiff for money received by the defendant, for the plaintiff's use.	Three years.	When the money is received.
25 For money payable for interest upon money due from the defendant to the plaintiff.	Three years.	When the interest becomes due.
26 For money payable to the plaintiff for money found to be due from the defendant to the plaintiff on accounts stated between them.	Three years.	When the accounts are stated in writing signed by the defendant or his agent duly authorised in this behalf, unless where the debt is, by a simultaneous agreement in writing signed as aforesaid, made payable at a future time, and then when that time arrives.
27 For compensation for breach of a promise to do anything at a specified time, or upon the happening of a specified contingency.	Three years.	When the time specified arrives or the contingency happens.
28 On a single bond, where a day is specified for payment.	Three years.	The day so specified.
29 On a single bond, where no such day is specified.	Three years.	The date of executing the bond.
30 On a bond subject to a condition.	Three years.	When the condition is broken.
31 On a bill of exchange or promissory note payable at a fixed time after date.	Three years.	When the bill or note falls due.
32 On a bill of exchange payable at sight, or after sight, but not at a fixed time.	Three years.	When the bill is presented.
33 On a bill of exchange accepted payable at a particular place.	Three years.	When the bill is presented at that place.
34 On a bill of exchange or promissory note payable at a fixed time after sight or after demand.	Three years	When the fixed time expires.

Description of suit	Period of limitation	Time from which period begins to run
35 On a bill of exchange or promissory note payable on demand and not accompanied by any writing restraining or postponing the right to sue.	Three years.	The date of the bill or note.
36 On a promissory note or bond payable by instalments.	Three years.	The expiration of the first term of payment as to the part then payable ; and for the other parts, the expiration of the respective terms of payment.
37 On a promissory note or bond payable by instalments, which provides that, if default be made in payment of one or more instalments, the whole shall be due.	Three years.	When the default is made, unless where the payee or obligee waives the benefit of the provision and then when fresh default is made in respect of which there is no such waiver.
38 On a promissory note given by the maker to a third person to be delivered to the payee after a certain event should happen.	Three years.	The date of the delivery to the payee.
39 On a dishonoured foreign bill where protest has been made and notice given.	Three years.	When the notice is given.
40 By the payee against the drawer of a bill of exchange, which has been dishonoured by non-acceptance.	Three years.	The date of the refusal to accept.
41 By the acceptor of an accommodation-bill against the drawer.	Three years.	When the acceptor pays the amount of the bill.
42 By a surety against the principal debtor.	Three years.	When the surety pays the creditor.
43 By a surety against a co-surety.	Three years.	When the surety pays anything in excess of his own share.
44 (a) On a policy of insurance when the sum insured is payable after proof of the death has been given to or received by the insurers.	Three years.	The date of the death of the deceased, or where the claim on the policy is denied, either partly or wholly, the date of such denial.
(b) On a policy of insurance when the sum insured is payable after proof of the loss has been given to or received by the insurers.	Three years.	The date of the occurrence causing the loss, or where the claim on the policy is denied, either partly or wholly, the date of such denial.
45 By the assured to recover premium paid under a policy voidable at the election of the insurers.	Three years.	When the insurers elect to avoid the policy.

39 of 1925.	Description of suit	Period of limitation	Time from which period begins to run
	46 Under the Indian Succession Act, 1925, section 360 or section 361, to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets.	Three years.	The date of the payment or distribution.
	47 For money paid upon an existing consideration which afterwards fails.	Three years.	The date of the failure.
	48 For contribution by a party who has paid the whole or more than his share of the amount due under a joint decree, or by a sharer in a joint estate who has paid the whole or more than his share of the amount of revenue due from himself and his co-sharers.	Three years.	The date of the payment in excess of the plaintiff's own share.
	49 By a co-trustee to enforce against the estate of a deceased trustee a claim for contribution.	Three years.	When the right to contribution accrues.
	50 By the manager of a joint estate of an undivided family for contribution, in respect of a payment made by him on account of the estate.	Three years.	The date of the payment.
	51 For the profits of immovable property belonging to the plaintiff which have been wrongfully received by the defendant.	Three years.	When the profits are received.
	52 For arrears of rent	Three years.	When the arrears become due.
	53 By a vendor of immovable property for personal payment of unpaid purchase-money.	Three years.	The time fixed for completing the sale, or (where the title is accepted after the time fixed for completion) the date of the acceptance.
	54 For specific performance of a contract.	Three years.	The date fixed for the performance, or, if no such date is fixed, when the plaintiff has notice that performance is refused.
	55 For compensation for the breach of any contract, express or implied not herein specially provided for.	Three years.	When the contract is broken or (where there are successive breaches) when the breach in respect of which the suit is instituted occurs or (where the breach is continuing) when it ceases.

Description of suit	Period of limitation	Time from which period begins to run
---------------------	----------------------	--------------------------------------

PART III.—SUITS RELATING TO DECLARATIONS

56 To declare the forgery of an instrument issued or registered.	Three years.	When the issue or registration becomes known to the plaintiff.
57 To obtain a declaration that an alleged adoption is invalid, or never, in fact, took place.	Three years	When the alleged adoption becomes known to the plaintiff.
58 To obtain any other declaration.	Three years.	When the right to sue first accrues.

PART IV.—SUITS RELATING TO DECREES AND INSTRUMENTS

59 To cancel or set aside an instrument or decree or for the rescission of a contract.	Three years.	When the facts entitling the plaintiff to have the instrument or decree cancelled or set aside or the contract rescinded first become known to him.
60 To set aside a transfer of property made by the guardian of a ward—		
(a) by the ward who has attained majority;	Three years.	When the ward attains majority.
(b) by the ward's legal representative—		
(i) when the ward dies within three years from the date of attaining majority;	Three years.	When the ward attains majority.
(ii) when the ward dies before attaining majority.	Three years.	When the ward dies.

PART V.—SUITS RELATING TO IMMOVABLE PROPERTY

61 By a mortgagor—		
(a) to redeem or recover possession of immovable property mortgaged;	Thirty years.	When the right to redeem or to recover possession accrues.
(b) to recover possession of immovable property mortgaged and afterwards transferred by the mortgagee for a valuable consideration;	Twelve years.	When the transfer becomes known to the plaintiff.
(c) to recover surplus collections received by the mortgagee after the mortgage has been satisfied.	Three years.	When the mortgagor re-enters on the mortgaged property.

Description of suit	Period of limitation	Time from which period begins to run
62 To enforce payment of money secured by a mortgage or otherwise charged upon immovable property.	Twelve years.	When the money sued for becomes due.
63 By a mortgagee— (a) for foreclosure;	Thirty years.	When the money secured by the mortgage becomes due.
(b) for possession of immovable property mortgaged.	Twelve years.	When the mortgagee becomes entitled to possession.
64 For possession of immovable property based on previous possession and not on title, when the plaintiff while in possession of the property has been dispossessed.	Twelve years.	The date of dispossession.
65 For possession of immovable property or any interest therein based on title.	Twelve years.	When the possession of the defendant becomes adverse to the plaintiff.
<i>Explanation.</i> —For the purposes of this article— (a) where the suit is by a remainderman, a reversioner (other than a landlord) or a devisee, the possession of the defendant shall be deemed to become adverse only when the estate of the remainderman, reversioner or devisee, as the case may be, falls into possession;		
(b) where the suit is by a Hindu or Muslim entitled to the possession of immovable property on the death of a Hindu or Muslim female, the possession of the defendant shall be deemed to become adverse only when the female dies;		
(c) where the suit is by a purchaser at a sale in execution of a decree when the judgment-debtor was out of possession at the date of the sale, the purchaser shall be deemed		

Description of suit	Period of limitation	Time from which period begins to run
to be a representative of the judgment-debtor who was out of possession.		
66 For possession of immovable property when the plaintiff has become entitled to possession by reason of any forfeiture or breach of condition.	Twelve years.	When the forfeiture is incurred or the condition is broken.
67 By a landlord to recover possession from a tenant.	Twelve years.	When the tenancy is determined.
PART VI.—SUITS RELATING TO MOVABLE PROPERTY		
68 For specific movable property lost, or acquired by theft, or dishonest misappropriation or conversion.	Three years.	When the person having the right to the possession of the property first learns in whose possession it is.
69 For other specific movable property.	Three years.	When the property is wrongfully taken.
70 To recover movable property deposited or pawned from a depositary or pawnee.	Three years.	The date of refusal after demand.
71 To recover movable property deposited or pawned, and afterwards bought from the depositary or pawnee for a valuable consideration.	Three years.	When the sale becomes known to the plaintiff.
PART VII.—SUITS RELATING TO TORT		
72 For compensation for doing or for omitting to do an act alleged to be in pursuance of any enactment in force for the time being in the territories to which this Act extends.	One year.	When the act or omission takes place.
73 For compensation for false imprisonment.	One year.	When the imprisonment ends.
74 For compensation for a malicious prosecution.	One year.	When the plaintiff is acquitted or the prosecution is otherwise terminated.
75 For compensation for libel.	One year.	When the libel is published.
76 For compensation for slander.	One year.	When the words are spoken, or, if the words are not actionable in themselves, when the special damage complained of results.
77 For compensation for loss of service occasioned by the seduction of the plaintiff's servant or daughter.	One year.	When the loss occurs.

	Description of suit	Period of limitation	Time from which period begins to run
	78 For compensation for inducing a person to break a contract with the plaintiff.	One year.	The date of the breach.
	79 For compensation for an illegal, irregular or excessive distress.	One year.	The date of the distress.
	80 For compensation for wrongful seizure of movable property under legal process.	One year.	The date of the seizure.
12 of 1855.	81 By executors, administrators or representatives under the Legal Representatives' Suits Act, 1855.	One year.	The date of the death of the person wronged.
13 of 1855.	82 By executors, administrators or representatives under the Indian Fatal Accidents Act, 1855.	Two years.	The date of the death of the person killed.
12 of 1855.	83 Under the Legal Representatives' Suits Act, 1855 against an executor, an administrator or any other representative.	Two years.	When the wrong complained of is done.
	84 Against one who, having a right to use property for specific purposes, perverts it to other purposes.	Two years.	When the perversion first becomes known to the person injured thereby.
	85 For compensation for obstructing a way or a watercourse.	Three years.	The date of the obstruction.
	86 For compensation for diverting a watercourse.	Three years.	The date of the diversion.
	87 For compensation for trespass upon immovable property.	Three years.	The date of the trespass.
	88 For compensation for infringing copyright or any other exclusive privilege.	Three years.	The date of the infringement.
	89 To restrain waste.	Three years.	When the waste begins.
	90 For compensation for injury caused by an injunction wrongfully obtained.	Three years.	When the injunction ceases.
	91 For compensation,— (a) for wrongfully taking or detaining any specific movable property lost, or acquired by theft, or dishonest misappropriation or conversion;	Three years.	When the person having the right to the possession of the property first learns in whose possession it is.

Description of suit	Period of limitation	Time from which period begins to run
(b) for wrongfully taking or injuring or wrongfully detaining any other specific movable property.	Three years.	When the property is wrongfully taken or injured, or when the detainer's possession becomes unlawful.
PART VIII.—SUITS RELATING TO TRUSTS AND TRUST PROPERTY		
92 To recover possession of immovable property conveyed or bequeathed in trust and afterwards transferred by the trustee for a valuable consideration.	Twelve years.	When the transfer becomes known to the plaintiff.
93 To recover possession of movable property conveyed or bequeathed in trust and afterwards transferred by the trustee for a valuable consideration.	Three years.	When the transfer becomes known to the plaintiff.
94 To set aside a transfer of immovable property comprised in a Hindu, Muslim or Buddhist religious or charitable endowment, made by a manager thereof for a valuable consideration.	Twelve years.	When the transfer becomes known to the plaintiff.
95 To set aside a transfer of movable property comprised in a Hindu, Muslim or Buddhist religious or charitable endowment, made by a manager thereof for a valuable consideration.	Three years.	When the transfer becomes known to the plaintiff.
96 By the manager of a Hindu, Muslim or Buddhist religious or charitable endowment to recover possession of movable or immovable property comprised in the endowment which has been transferred by a previous manager for a valuable consideration.	Twelve years.	The date of death, resignation or removal of the transferor or the date of appointment of the plaintiff as manager of the endowment, whichever is later.

PART IX.—SUITS RELATING TO MISCELLANEOUS MATTERS

97 To enforce a right of pre-emption whether the right is founded on law or general usage or on special contract.	One year.	When the purchaser takes under the sale sought to be impeached, physical possession of the whole or part of the property sold, or, where the subject matter of the sale does not admit of
---	-----------	---

Not Corrected: See Index Page

	Description of suit	Period of limitation	Time from which period begins to run
5 of 1908.	98 By a person against whom an order under rule 63 or rule 103 of Order XXI of the Code of Civil Procedure, 1908 or an order under section 28 of the Presidency Small Cause Courts Act, 1882, has been made, to establish the right which he claims to the property comprised in the order.	One year.	physical possession of the whole or part of the property, when the instrument of sale is registered. The date of the final order.
15 of 1882.	99 To set aside a sale by a civil or revenue court or a sale for arrears of Government revenue or for any demand recoverable as such arrears.	One year.	When the sale is confirmed or would otherwise have become final and conclusive had no such suit been brought.
	100 To alter or set aside any decision or order of a civil court in any proceeding other than a suit or any act or order of an officer of Government in his official capacity.	One year.	The date of the final decision or order by the court or the date of the act or order of the officer, as the case may be.
	101 Upon a judgment, including a foreign judgment, or a recognisance.	Three years.	The date of the judgment or recognisance.
	102 For property which the plaintiff has conveyed while insane.	Three years.	When the plaintiff is restored to sanity and has knowledge of the conveyance.
	103 To make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust.	Three years.	The date of the trustee's death or if the loss has not then resulted, the date of the loss.
	104 To establish a periodically recurring right.	Three years.	When the plaintiff is first refused the enjoyment of the right.
	105 By a Hindu for arrears of maintenance.	Three years.	When the arrears are payable.
	106 For a legacy or for a share of a residuary bequeathed by a testator or for a distributive share of the property of an intestate against an executor or an administrator or some other person legally charged with the duty of distributing the estate.	Twelve years.	When the legacy or share becomes payable or deliverable.

Description of suit	Period of limitation	Time from which period begins to run
107 For possession of a hereditary office. <i>Explanation.</i> —A hereditary office is possessed when the properties thereof are usually received, or (if there are no properties) when the duties thereof are usually performed.	Twelve years.	When the defendant takes possession of the office adversely to the plaintiff.
108 Suit during the life of a Hindu or Muslim female by a Hindu or Muslim who, if the female died at the date of instituting the suit, would be entitled to the possession of land, to have an alienation of such land made by the female declared to be void except for her life or until her re-marriage.	Twelve years.	The date of the alienation.
109 By a Hindu governed by Mitakshara law to set aside his father's alienation of ancestral property.	Twelve years.	When the alienee takes possession of the property.
110 By a person excluded from a joint family property to enforce a right to share therein.	Twelve years.	When the exclusion becomes known to the plaintiff.
111 By or on behalf of any local authority for possession of any public street or road or any part thereof from which it has been dispossessed or of which it has discontinued the possession.	Thirty years.	The date of the dispossession or discontinuance.
112 Any suit (except a suit before the Supreme Court in the exercise of its original jurisdiction) by or on behalf of the Central Government or any State Government, including the Government of the State of Jammu and Kashmir.	Thirty years.	When the period of limitation would begin to run under this Act against a like suit by a private person.
PART X.—SUITS FOR WHICH THERE IS NO PRESCRIBED PERIOD		
113 Any suit for which no period of limitation is provided elsewhere in this Schedule.	Three years.	When the right to sue accrues.

SECOND DIVISION—APPEALS

	Description of appeal	Period of limitation	Time from which period begins to run
5 of 1898.	114 Appeal from an order of acquittal,— (a) under sub-section (1) or sub-section (2) of section 417 of the Code of Criminal Procedure, 1898; (b) under sub-section (3) of section 417 of that Code.	Ninety days. Thirty days.	The date of the order appealed from. The date of the grant of special leave.
	115 Under the Code of Criminal Procedure, 1898— (a) from a sentence of death passed by a court of session or by a High Court in the exercise of its original criminal jurisdiction; (b) from any other sentence or any order not being an order of acquittal— (i) to the High Court (ii) to any other court	Thirty days. Sixty days. Thirty days.	The date of the sentence. The date of the sentence or order. The date of the sentence or order.
5 of 1908.	116 Under the Code of Civil Procedure, 1908,— (a) to a High Court from any decree or order. (b) to any other court from any decree or order.	Ninety days. Thirty days.	The date of the decree or order. The date of the decree or order.
	117 From a decree or order of any High Court to the same Court.	Thirty days.	The date of the decree or order.

THIRD DIVISION—APPLICATIONS

	Description of application	Period of limitation	Time from which period begins to run
PART I.—APPLICATIONS IN SPECIFIED CASES			
10 of 1940.	118 For leave to appear and defend a suit under summary procedure.	Ten days.	When the summons is served
	119 Under the Arbitration Act, 1940,— (a) for the filing in court of an award; (b) for setting aside an award or getting an award remitted for reconsideration.	Thirty days. Thirty days.	The date of service of the notice of the making of the award; The date of service of the notice of the filing of the award.
5 of 1908.	120 Under the Code of Civil Procedure, 1908, to have the legal representative of a deceased plaintiff or appellant or of a deceased defendant or respondent, made a party.	Ninety days.	The date of death of the plaintiff, appellant, defendant or respondent as the case may be.
	121 Under the same Code for an order to set aside an abatement.	Sixty days.	The date of abatement.

Description of application	Period of limitation	Time from which period begins to run
122 To restore a suit or appeal or application for review or revision dismissed for default of appearance or for want of prosecution or for failure to pay costs of service of process or to furnish security for costs.	Thirty days.	The date of dismissal.
23 To set aside a decree passed <i>ex parte</i> or to rehear an appeal decreed or heard <i>ex parte</i> .	Thirty days.	The date of the decree or where the summons or notice was not duly served, when the applicant had knowledge of the decree.
<i>Explanation.</i> —For the purpose of this article, substituted service under rule 20 of Order V of the Code of Civil Procedure, 1908 shall not be deemed to be due service.		5 of 1908.
124 For a review of judgment by a court other than the Supreme Court.	Thirty days.	The date of the decree or order.
125 To record an adjustment or satisfaction of a decree.	Thirty days.	When the payment or adjustment is made.
126 For the payment of the amount of a decree by instalments.	Thirty days.	The date of the decree.
127 To set aside a sale in execution of a decree, including any such application by a judgment-debtor.	Thirty days.	The date of the sale.
128 For possession by one dispossessed of immovable property and disputing the right of the decree-holder or purchaser at a sale in execution of a decree.	Thirty days.	The date of the dispossession.
129 For possession after removing resistance or obstruction to delivery of possession of immovable property decreed or sold in execution of a decree.	Thirty days.	The date of resistance or obstruction.
130 For leave to appeal as a pauper— (a) to the High Court (b) to any other court	Sixty days. Thirty days.	The date of decree appealed from. The date of decree appealed from.
131 To any court for the exercise of its powers of revision under the Code of Civil Procedure, 1908 or the Code of Criminal Procedure, 1898.	Ninety days.	The date of the decree or order or sentence sought to be revised.

Description of application	Period of limitation	Time from which period begins to run
132 To the High Court for a certificate of fitness to appeal to the Supreme Court under clause (r) of article 132, article 133 or sub-clause (c) of clause (1) of article 134 of the Constitution or under any other law for the time being in force.	Sixty days.	The date of the decree, order or sentence.
133 To the Supreme Court for special leave to appeal,— (a) in a case involving death sentence ; (b) in a case where leave to appeal was refused by the High Court; (c) in any other case.	Sixty days. Sixty days. Ninety days.	The date of the judgment final order or sentence. The date of the order of refusal. The date of the judgment or order.
134 For delivery of possession by a purchaser of immovable property at a sale in execution of a decree.	One year.	When the sale becomes absolute.
135 For the enforcement of a decree granting a mandatory injunction.	Three years.	The date of the decree or where a date is fixed for performance, such date.
136 For the execution of any decree (other than a decree granting a mandatory injunction) or order of any civil court.	Twelve years.	Where the decree or order becomes enforceable or where the decree or any subsequent order directs any payment of money or the delivery of any property to be made at a certain date or at recurring periods, when default in making the payment or delivery in respect of which execution is sought, takes place : Provided that an application for the enforcement or execution of a decree granting a perpetual injunction shall not be subject to any period of limitation.

~~Not Corrected—See India Order~~

274.

Limitation

[ACT 36 OF 1953]

PART II—OTHER APPLICATIONS

Description of application	Period of limitation	Time from which period begins to run
I37 Any other application for which no period of limitation is provided elsewhere in this Division.	Three years.	When the right to apply accrues.

Not Corrected: See India Code, Vol V-B, Pt VII, p 403.

THE PERSONAL INJURIES (COMPENSATION INSURANCE) ACT, 1963

No. 37 OF 1963

[8th October, 1963]

An Act to impose on employers a liability to pay compensation to workmen sustaining personal injuries and to provide for the insurance of employers against such liability.

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 Personal Injuries (Compensation Insurance) Act, 1963.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may by notification appoint.

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

Definitions.

(a) "employer" includes any body of persons whether incorporated or not and any managing agent of an employer and the legal representative of a deceased employer, and when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means the latter person while the workman is working for that other person;

(b) the "Fund" means the Personal Injuries (Compensation Insurance) Fund constituted under section 13;

(c) "gainfully occupied person" and "personal injury" have the meanings respectively assigned to those expressions in the Personal Injuries (Emergency Provisions) Act, 1962;

(d) "notification" means a notification published in the Official Gazette;

(e) "partial disablement" means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time the injury was sustained, and where the disablement is of a permanent nature, such disablement as reduces his earning capacity in any employment which he was capable of undertaking at that time:

Provided that permanent partial disablement shall be deemed to result from every injury, or from any combination of injuries, specified in the Schedule, where the percentage, or the aggregate percentage, of disability as specified in the Schedule against such injury, or combination of injuries amounts to less than one hundred per cent.;

(f) "period of the emergency" means the period beginning with 26th October, 1962, the date on which the Proclamation of Emergency under clause (1) of article 352 of the Constitution was issued, and ending with such date as the Central Government may by notification declare to be the date on which the emergency shall come to an end;

(g) "prescribed" means prescribed by rules made under section 22;

(h) "total disablement" means such disablement whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time the injury was sustained:

Provided that permanent total disablement shall be deemed to result from every injury, or from any combination of injuries, specified in the Schedule, where the percentage, or the aggregate percentage, of disability as specified in the Schedule against such injury, or combination of injuries, amounts to one hundred per cent. or more;

(i) the "Scheme" means the Personal Injuries (Compensation Insurance) Scheme referred to in sub-section (1) of section 8;

8 of 1923. (j) "wages" means wages as defined in the Workmen's Compensation Act, 1923, and "monthly wages" has the meaning assigned to that expression by section 5 of the Workmen's Compensation Act, 1923, and shall be calculated for the purposes of this Act in the manner laid down in that section;

(k) "workman" means any person (other than a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business) who is employed in any of the employments specified in section 3.

CHAPTER II

COMPENSATION PAYABLE UNDER THE ACT

3. The workmen to whom this Act applies are—

Workmen
to whom
the Act
applies.

(a) workmen employed in any employment or class of employment which is, or has been declared to be, an essential service under rule 126AA of the Defence of India Rules, 1962;

63 of 1948. (b) the workmen employed in any factory as defined in clause (m) of section 2 of the Factories Act, 1948;

35 of 1952. (c) workmen employed in any mine within the meaning of the Mines Act, 1952;

(d) workmen employed in any major port;

69 of 1951. (e) workmen employed in any plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951;

(f) workmen employed in any employment specified in this behalf by the Central Government by notification.

59 of 1962. 4. (1) There shall, subject to such conditions as may be specified in the Scheme, be payable by an employer in respect of personal injury sustained by a gainfully occupied person who is a workman to whom this Act applies, compensation, in addition to any relief provided under the Personal Injuries (Emergency Provisions) Act, 1962, of the amount and kind provided by section 7:

Compensa-
tion payable
under the
Act, by
whom and
how pay-
able.

Provided that where an employer has taken out a policy of insurance, as required by sub-section (1) of section 9, and has made all payments by way of premium thereon which are subsequently due from him in accordance with the provisions of the Scheme or where by the provisions of sub-section (1) of section 9 or of sub-section (2) of section 10 the employer is not required to insure, the

Central Government shall assume and discharge on behalf of the employer the employer's liability to pay compensation under this sub-section.

(2) The compensation payable under this Act shall be payable in accordance with the provisions made in this behalf in the Scheme.

(3) This section shall be binding on the Government.

**Limitation
on right to
receive com-
pensation
otherwise
than under
this Act
and Act 59
of 1962.**

5. Where any person has a right apart from the provisions of this Act and of the Personal Injuries (Emergency Provisions) Act, 1962, to receive compensation (whether in the form of gratuity, pension, compassionate payment or otherwise) or damages from an employer in respect of a personal injury in respect of which compensation is payable under this Act, the right shall extend only to so much of such compensation or damages as exceeds the amount of compensation payable under this Act.

**Special
provisions
in relation to
employees
of Govern-
ment.**

6. Where any person in the employ of Government has under the rules regulating the conditions of his service a right apart from the provisions of this Act or of the Personal Injuries (Emergency Provisions) Act, 1962, to receive any sum, whether as extraordinary pension, gratuity, compassionate payment or damages, from the Government in respect of a personal injury in respect of which compensation is payable under this Act, then, notwithstanding anything contained in this Act or the Personal Injuries (Emergency Provisions) Act, 1962, that person shall have the right to receive the sum admissible under those rules and if the sum so admissible is less than the amount payable as compensation under this Act and the Personal Injuries (Emergency Provisions) Act, 1962, then, he shall have a further right to receive an amount equal to the difference between the sum admissible under those rules and the amount of compensation payable under this Act.

**Amount of
compensa-
tion.**

7. (1) The compensation payable under this Act shall be as follows:—

(a) where death results from the injury, the amount payable in a like case under the Workmen's Compensation Act, 1923, reduced by the value in lump sum of the amount payable under the Personal Injuries (Emergency Provisions) Act, 1962;

(b) where permanent total disablement results from the injury, the amount payable in a like case under the Workmen's Compensation Act, 1923, reduced by the value in lump sum of the amount payable under the Personal Injuries (Emergency Provisions) Act, 1962;

Not Corrected: See India Code

or 1963] Personal Injuries (Compensation Insurance)

279

(c) where permanent partial disablement results from the injury—

(i) in the case of an injury specified in the Schedule—such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of disablement;

(ii) in the case of an injury not specified in the Schedule—the percentage of such compensation specified in the Schedule for disablement held by a competent medical authority acting under the Scheme made under the Personal Injuries (Emergency Provisions) Act, 1962, to be of corresponding degree;

(iii) where more injuries than one are sustained—the aggregate of the compensation payable in respect of those injuries, so however as not to exceed in any case the compensation which would have been payable if permanent total disability had resulted from the injuries;

(d) where temporary disablement, whether total or partial, results from the injury, the half-monthly payments payable in a like case under the Workmen's Compensation Act, 1923, reduced in each case, so long as he receives any payment under the Scheme made under the Personal Injuries (Emergency Provisions) Act, 1962, by the amount payable under the said Scheme.

(2) Where the monthly wages of a workman are more than five hundred rupees, the compensation payable under this Act shall be the amount payable under the provisions of sub-section (1) in the case of a workman whose monthly wages are more than four hundred rupees.

CHAPTER III

PERSONAL INJURIES (COMPENSATION INSURANCE) SCHEME

8. (1) The Central Government shall, by notification, put into operation a Scheme to be called the Personal Injuries (Compensation Insurance) Scheme whereby provision is made for all matters necessary to give effect to the purposes of this Act and whereby the Central Government undertakes, in relation to employers of workmen to whom this Act applies, the liabilities of insuring such employers against liabilities incurred by them to workmen under this Act and the Scheme.

Personal
Injuries
(Compensa-
tion
Insurance)
Scheme.

(2) The Scheme shall secure that any liability of the Central Government as insurer under the Scheme is determined by a policy of insurance issued in the prescribed form by a person acting on behalf of the Central Government.

(3) The Scheme may provide that it shall come into operation or shall be deemed to have come into operation on such date as may be specified therein.

(4) The Scheme may be amended at any time by the Central Government.

(5) Without prejudice to the generality of the provisions of subsection (1), the Scheme may—

(a) make provisions regulating the payment of the compensation payable under this Act and the Scheme, including provisions for punishment by fine not exceeding two thousand rupees for the contravention of any requirement of the Scheme;

(b) make provisions specifying the persons to whom and the proportions and manner in which payments under this Act shall be made;

(c) make provisions for determining the value in lump sum of the amount payable under the Personal Injuries (Emergency Provisions) Act, 1962;

(d) specify conditions or circumstances which will disentitle a workman to the compensation payable under this Act, and make it an express or implied condition of any policy of insurance issued under the Scheme that the payment of compensation in defiance of such specification is not covered by the policy;

(e) specify the conditions or circumstances under which the compensation payable to a workman may be withheld, cancelled, reduced or reviewed if the award made under the Scheme made under the Personal Injuries (Emergency Provisions) Act, 1962, is withheld, cancelled, reduced or reviewed;

(f) provide for cases in which an employer has of his own accord undertaken a part or the whole of the liability imposed by this Act;

(g) provide for the final assessment of the total premium due on a policy of insurance under the Scheme either as the equivalent of all advance payments of premium already made by an employer, or as a percentage of the total wages bills of an employer for the periods with reference to which the amount of any

Not Corrected: See India Code

advance payments made by him was fixed or as a percentage of the total wages bill of an employer for a period of not less than twelve or more than fifteen months immediately preceding the expiry of the period of the emergency, and for the assessment of the total premium due on a policy which has ceased to be in force before the expiry of the period of the emergency owing to the employer having gone out of business;

(h) provide for the recovery from an employer of the total premium due on a policy of insurance including provision for its recovery by periodic advance payments of an amount based on a percentage of his total wages bill for any prescribed period, the separate funding of the payments so made by each employer, and the eventual adjustment of the total premium as finally assessed against the total of such periodic payments:

Provided that where the amount of the periodic payment based on the total wages bill of the prescribed period is less than eight rupees, it shall be increased to eight rupees:

Provided further that the first of such periodic payments shall, subject to the aforesaid minimum of eight rupees, be at such rate as the Central Government may specify in this behalf:

Provided further that such periodic payments shall not be more frequent than once in each quarter of a year:

Provided further that the rate of any periodic payment after the first shall, subject to the aforesaid minimum of eight rupees, be such as the Central Government may, after considering its liabilities under this Act, fix from time to time, and the Central Government may, where the total amount in the Fund so requires, either waive or postpone any periodic payment.

9. (1) Every employer of workmen to whom this Act applies or **Compulsory insurance.** is subsequently made applicable, except an employer whose total wages bill for any quarter after the commencement of this Act has never exceeded fifteen hundred rupees, shall, before such date as may be prescribed, or before the expiry of such period as may be prescribed after his having first become such an employer, take out a policy of insurance issued in accordance with the Scheme, whereby he is insured until the expiry of the period of the emergency or until the date, if any, prior to the expiry of the period of the emergency at which he ceases to be an employer to whom this section applies, against all liabilities imposed on him by this Act.

(2) Whoever contravenes the provisions of sub-section (1) or, having taken out a policy of insurance as required by that sub-section, fails to make any payment by way of premium thereon which is subsequently due from him in accordance with the provisions of the Scheme, shall be punishable with fine which may extend to two thousand rupees and shall also be punishable with a further fine which may extend to one thousand rupees for every day after having been so convicted on which the contravention or failure continues.

(3) This section shall not bind the Government.

**Principals
and
contractors.**

10. (1) Where a person (in this section referred to as the principal) uses, in the course of or for the purposes of his trade or business, the services of workmen temporarily lent or let on hire to him by arrangement with another person with whom the workmen have entered into contracts of service or apprenticeship, or in the course of or for the purposes of his trade or business, contracts with any other person for the execution by or under such other person of the whole or any part of any work which is ordinarily part of the trade or business of the principal (either such other person being in this section referred to as the contractor) the principal shall obtain from the contractor the name of the agent of the Central Government acting under section 11 with whom he intends to insure, and shall report to that agent the existence of his arrangement or contract with the contractor.

(2) Notwithstanding anything elsewhere contained in this Act, in any such case as is referred to in sub-section (1), it shall not be necessary for the contractor to insure against the liabilities imposed on him by this Act in respect of workmen employed by him whose Services are lent or let on hire on such an arrangement or used in the execution of work on such a contract as is referred to in sub-section (1), where the arrangement or contract is for a term of less than one month.

(3) The Scheme may make provision for the supply by a contractor to a principal of any information necessary to enable the purposes of this section to be carried out including provision for punishment by fine not exceeding two thousand rupees for the contravention of any requirement of the Scheme.

**Employ-
ment of
agents by
the Central
Govern-
ment.**

11. The Central Government may by notification employ or authorise the employment of any person to act as its agent for any of the purposes of this Act and to pay to the person so employed such remuneration as it may think fit.

Not Corrected: See India Code

of 1963]

Personal Injuries (Compensation Insurance)

283

12. (1) After the date on which the Scheme is put into operation, no person shall, except as a person authorised by the Central Government as its agent to issue policies in pursuance of the Scheme, carry on the business of insuring employers in India against the liabilities for insurance against which the Scheme provides.

(2) Nothing in sub-section (1) applies to any policy of insurance entered into before the date on which the Scheme is put into operation and current after that date or to any policy of insurance covering liabilities undertaken in excess of the liabilities imposed by this Act.

(3) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to five thousand rupees and with a further fine which may extend to one thousand rupees for every day after the first on which the contravention continues.

13. (1) The Central Government may, after due appropriation made by Parliament by law in this behalf, transfer in each financial year to a fund to be called the Personal Injuries (Compensation Insurance) Fund (hereinafter referred to as the "Fund") such sums, as may be considered necessary, not exceeding the sums received by the Central Government by way of insurance premiums under the Scheme, or by way of payments made on composition of offences under section 18 or by way of expenses or compensation awarded by a court under section 545 of the Code of Criminal Procedure, 1898, out of any fine imposed in any prosecution under this Act or by way of penalties imposed under the Scheme.

Personal
Injuries
(Compensa-
tion Insu-
rance)
Fund.

5 of 1898.

(2) There shall be paid from out of the Fund all sums required for the discharge by the Central Government of any of its liabilities under this Act or the Scheme or for the payment by the Central Government of the remuneration and expenses of agents employed for the purposes of the Scheme or for the payment by the Central Government of the cost of administering the Scheme:

Provided that no payment from the Fund shall be made in discharge of any liability of the Government to pay compensation to workmen employed by it.

(3) If at any time when a payment is to be made out of the Fund, the sum standing to the credit of the Fund is less than the sum required for the making of that payment, an amount equal to the deficiency shall, after due appropriation made by Parliament by law, be paid into the Fund as an advance out of the Consolidated Fund of India.

(4) If at any time the amount standing to the credit of the Fund exceeds the sum which, in the opinion of the Central Government, is likely to be required for the making of payments out of the Fund, the excess shall be disposed of in such manner as the Central Government may think fit.

(5) The Central Government shall prepare in such form and manner as may be prescribed and shall publish either annually or at such shorter intervals as may be specified therein, an account of all sums received into and paid out of the Fund.

CHAPTER IV

MISCELLANEOUS

Power of
Central
Government
to obtain
information.

14 (1) Any person authorised in this behalf by the Central Government may, for the purpose of ascertaining whether the requirements of this Act and of the Scheme have been complied with, require any employer to submit to him such accounts, books or other documents or to furnish to him such information or to give such certificates as he may reasonably think necessary.

(2) Whoever wilfully obstructs any person in the exercise of his powers under this section or fails without reasonable excuse to comply with any request made thereunder shall, in respect of each occasion on which any such obstruction or failure takes place, be punishable with fine which may extend to one thousand rupees.

(3) Whoever in purporting to comply with his obligations under this section knowingly or recklessly makes a statement false in a material particular shall be punishable with fine which may extend to one thousand rupees.

Recovery
of premium
unpaid.

15. (1) Without prejudice to the provisions of sub-section (2) of section 9, where any person has failed to insure as or to the full amount required by this Act and the Scheme and has thereby evaded the payment by way of premium of any money which he would have had to pay in accordance with the provisions of the Scheme but for such failure, an officer authorised in this behalf by the Central Government, may determine the amount payment of which has been so evaded and the amount so determined shall be payable by such person and shall be recoverable from him as provided in sub-section (2).

(2) Any sum payable in accordance with the provisions of the Scheme by way of premium on a policy of insurance issued under the Scheme and any amount determined as payable under sub-section (1) shall be recoverable as an arrear of land-revenue.

(3) Any person against whom a determination is made under sub-section (1) may, within the prescribed period, appeal against such determination to the Central Government whose decision shall be final.

16. Where an employer has failed to take out a policy of insurance as required by sub-section (1) of section 9, or having taken out a policy of insurance as required by that sub-section, has failed to make the payments by way of premium thereon which are subsequently due from him in accordance with the provisions of the Scheme, payment of any compensation for the payment of which he is liable under this Act may be made out of the Fund, and the sum so paid together with a penalty of such amount not exceeding the sum so paid as may be determined by an officer authorised in this behalf by the Central Government shall be recoverable from the employer as an arrear of land-revenue for payment into the Fund.

17. No prosecution for any offence punishable under this Act shall be instituted against any person except by or with the consent of the Central Government or an authority authorised in this behalf by the Central Government.

18. Any offence punishable under sub-section (2) of section 9 may, either before or after the institution of the prosecution, be compounded by the Central Government or by any authority authorised in this behalf by the Central Government on payment for credit to the Fund of such sum as the Central Government or such authority, as the case may be, thinks fit.

19. Where any offence against this Act is tried by a Presidency Magistrate or a magistrate of the first class, then, notwithstanding anything contained in the Code of Criminal Procedure, 1898, the magistrate trying the offence may pass any sentence authorised by this Act.

20. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

(2) No suit shall be maintainable in any civil court against the Central Government or a person acting as its agent under section 11 for the refund of any money paid or purporting to have been paid by way of premium on a policy of insurance taken out or purporting to have been taken out under this Act.

Power to exempt employers.

21. The Central Government shall exempt any employer from the provisions of this Act on the employer's request, if satisfied that he has before the commencement of this Act entered into a contract with insurers substantially covering the liabilities imposed on him by this Act, for so long as that contract continues.

Power to make rules.

22. (1) The Central Government may by notification make rules to carry into effect the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power such rules may prescribe—

(a) the principles to be followed in ascertaining the total wages bill of an employer, including provision for the exclusion therefrom of certain categories of wages or of certain elements included in the definition of wages;

(b) the form of the policies of insurance referred to in sub-section (2) of section 8;

(c) the period referred to in clause (g) of sub-section (5) of section 8;

(d) the date and the period referred to in sub-section (1) of section 9;

(e) the form of and the manner of preparing and publishing the account referred to in sub-section (5) of section 13;

(f) the periods referred to in sub-section (3) of section 15;

(g) any other matter which has to be or may be prescribed.

Power to remove difficulties.

23. If any difficulty arises in giving effect to the provisions of this Act, and in particular, if any doubt arises as to whether any compensation is payable under this Act or as to the amount thereof the Central Government may, by order, make such provision or give such direction, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for the removal of the doubt or difficulty; and the decision of the Central Government, in such cases, shall be final.

Scheme to be laid before both Houses of Parliament.

24. Every Scheme and every rule 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 in which it is so laid

Not Corrected: See India Code

of 1963] *Personal Injuries (Compensation Insurance)*

287

or the successive sessions aforesaid, both Houses agree in making any modification in the Scheme or the rule or both Houses agree that the Scheme or the rule should not be made, the Scheme or the rule shall thereafter have effect only in such modified form or be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Scheme or the rule.

THE SCHEDULE

[See sections 2 and 7(1)]

Description of injury	Percentage of disability
<i>Upper Limb</i>	
Loss of both hands or of all fingers and thumbs	100
Amputation of Right arm through shoulder	90
Amputation of Left arm through shoulder	90
Amputation below shoulder stump exceeding 6 inches from tip of acromion (Right)	80
Amputation below shoulder stump not exceeding 6 inches (Right)	90
Amputation below shoulder stump not exceeding 6 inches (Left)	80
Amputation below shoulder from tip of acromion stump exceeding 6 inches (Left)	70
Amputation through elbow or below elbow with stump not exceeding 5 inches (Right)	80
Amputation through elbow or below elbow with stump not exceeding 5 inches (Left)	70
Amputation below elbow stump exceeding 5 inches (Right)	70
Amputation below elbow stump exceeding 5 inches (Left)	50
Loss of thumb (Right)	50

Description of injury	Percentage of disability
Loss of thumb (Left)	40
Loss of 4 fingers (Right)	50
Loss of 4 fingers (Left)	40
Loss of 2 fingers on either hand	20
<i>Lower Limb</i>	
Loss of 2 or more limbs	100
Amputation of both feet	100
Amputation of one leg at hip or below hip with stump not exceeding 5 inches	90
Lisfranc's Operation both feet	80
Amputation below hip with stump exceeding 5 inches	80
Amputation through both feet proximal to the metatarso-phalangeal joint	80
Loss of all toes of both feet through the metatarso-phalangeal joint	40
Loss of all toes of both feet proximal to the proximal interphalangeal joints	30
Loss of all toes of both feet distal to the proximal interphalangeal joint	20
Amputation of leg below middle thigh through knee or below knee with stump not exceeding 4 inches	70
Amputation of leg below knee with stump exceeding 4 inches	60
Lisfranc's amputation of one foot	40
Amputation through one foot proximal to the metatarso-phalangeal joint	30
Loss of all toes of one foot proximal to the proximal interphalangeal joint including amputations through the metatarso-phalangeal joint	20

Not Corrected: See India Code
 or 1963] **Personal Injuries (Compensation Insurance)** 289

Description of injury	Percentage of disability
<i>Other Specific injury</i>	
Loss of hand and foot	100
<i>Other disablements</i>	
Very severe facial disfigurement	100
Total loss of speech	70
Limited restriction of movement of joint through injury without penetration, or limited function of limb through fracture, or compound fracture of thumb or 2 or more fingers of either hand with impaired function	20
<i>Ankyloses in optimum position, i.e., the position of greatest usefulness</i>	
	<i>Right</i> <i>Left</i>
<i>Arm</i>	
Shoulder	40% 30%
Elbow	40% 30%
Wrist	30% 20%
<i>Leg</i>	
Hip	60%
Knee	40%
Ankle	30%
<i>Defective vision</i>	
Loss of sight	100%
Loss of one eye without complications, the other eye being normal	40%
Loss of vision of one eye with complications or disfigurement, the other eye being normal	40%
Loss of vision of one eye without complications or disfigurement, the other eye being normal	30%

Other degree of defective vision

	When best obtainable acuity is in	Assessment	When one eye removed—best obtainable acuity in remaining eye, Per cent., with or without glasses	Assessment
	One eye The other	Per cent.		
1.	6/6	6/24	15.19	1. 6/6
	or	6/36 }		2. 6/9 }
2.	6/9	6/60 }	20	3. 6/12 }
	or	3/60 }		
3.	6/12	Nil	30	4. 6/18
4.	6/18	6/18	15.19	5. 6/24
5.	6/18	6/24	30	6. 6/36
6.	6/18	6/36 }		
7.	6/18	6/60 }	40	7. 6/60 }
8.	6/18	6/60 }		8. 3/60 }
9.	6/18	Nil	50	
10.	6/24	6/24	30	9. Nil
11.	6/24	6/36	40	
12.	6/24	6/60 }	50	
13.	6/24	3/60 }		
14.	6/24	Nil	70	
15.	6/36	6/36	50	
16.	6/36	6/60 }	60	
17.	6/36	3/60 }		
18.	6/36	Nil	80	
19.	6/60	6/60 }	80	
20.	6/60	3/60 }		
21.	6/60	Nil	90	
22.	3/60	3/60	80	
23.	5/60	Nil	90	
24.	Nil	Nil	100	

Not Corrected: See India Code

6F 1963] Personal Injuries (Compensation Insurance)

291

Defective hearing

Assessment should be based on the Grade attained using both ears together; the percentage assessment appropriate to the Grade thus attained is given in the last column.

	Grade of hearing attained	Assessment of both ears used together
1	Total deafness	80%
2	Shout not beyond 3 feet	70%
3	Conversational voice not over 1 foot	60%
4	Conversational voice not over 3 feet	40%
5	Conversational voice not over 6 feet	20%
6	Conversational voice not over 9 feet— (a) one ear totally deaf (b) otherwise	20% Less than 20%

A case in which the right ear attained grade 4, the left ear grade 2 and both ears together grade 3 should, therefore, be recorded thus:

R. 4 L₂. R plus L₃ Assessment 60 per cent.

The assessment given above take into account minor ailments such as headache, vertigo tinnitus, sleeplessness, etc., which generally accompany deafness.

~~Not Corrected: See India Code, Vol VIII A, Pt I, p - 637.~~

THE MAJOR PORT TRUSTS ACT, 1963

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title, commencement and application.
2. Definitions.

CHAPTER II

BOARD OF TRUSTEES AND COMMITTEES THEREOF

3. Constitution of Board of Trustees.
4. First Board of Trustees.
5. Board to be body corporate.
6. Disqualification for office of Trustee.
7. Term of office of Trustees.
8. Vacation of office of Trustees.
9. Eligibility of Trustee for re-appointment or re-election.
10. Filling in of vacancies in office of Trustee.
11. Saving provision for appointment of Trustee by Central Government after prescribed period.
12. Power of Central Government to extend time for election or appoint Trustees in default of election.
13. Term of office in case of certain Trustees.
14. Absence of Chairman and Deputy Chairman.
15. Conditions of service of Chairman and Deputy Chairman.
16. Meetings of Board.

Not Corrected: See India Code

[ACT 38 OF 1963]

Major Port Trusts

293

SECTIONS

17. Committees of Board.
18. Fees and allowances payable to Trustees.
19. Restriction of power of Trustees to vote in certain cases.
20. Defects in appointments or election not to invalidate acts, etc.
21. Delegation of powers.
22. Duties of Chairman and Deputy Chairman.

CHAPTER III

STAFF OF THE BOARD

23. Schedule of Board's staff.
24. Power to make appointments.
25. Power to promote, grant leave, etc., to employees of Board.
26. Consulting Engineer to Board.
27. Sanction of Central Government necessary in case of creation of certain posts.
28. Power to make regulations.

CHAPTER IV

PROPERTY AND CONTRACTS

29. Transfer of assets and liabilities of Central Government, etc., to Board.
30. Existing rates, etc., to continue until altered by Board.
31. Repayment of capital with interest.
32. Procedure when immovable property cannot be acquired by agreement.
33. Contracts by Board.
34. Mode of executing contracts on behalf of Board.

CHAPTER V

WORKS AND SERVICES TO BE PROVIDED AT PORTS

SECTIONS

35. Power of Board to execute works and provide appliances.
36. Power of Board to undertake certain works.
37. Power of Board to order sea-going vessels to use docks, wharves, etc.
38. If accommodation sufficient, all sea-going vessels compelled to use docks, wharves, etc.
39. Power to order vessels not to come alongside of, or to be removed from, docks, wharves, etc.
40. Power of Central Government to exempt from obligation to use docks, wharves, etc.
41. Board to declare when vessels other than sea-going vessels compelled to use docks, wharves, etc.
42. Performance of services by Board or other person.
43. Responsibility of Board for loss, etc., of goods.
44. Accommodation to be provided for customs officers in wharves, etc., appointed under Customs Act.
45. Dues at customs wharves, etc.
46. Power to permit erection of private wharves, etc., within a port subject to conditions.
47. Compensation payable in certain cases where use of any private wharf, etc., rendered unlawful.

CHAPTER VI

IMPOSITION AND RECOVERY OF RATES AT PORTS

48. Scales of rates for services performed by Board or other person.
49. Scale of rates and statement of conditions for use of property belonging to Board.
50. Consolidated rates for combination of services.
51. Power to levy concessional rates in certain cases.
52. Prior sanction of Central Government to rates and conditions.

SECTIONS

53. Exemption from, and remission of, rates or charges.
54. Power of Central Government to require modification or cancellation of rates.
55. Refund of overcharges.
56. Notice of payment of charges short-levied or erroneously refunded.
57. Board not to lease rates without sanction.
58. Time for payment of rates on goods.
59. Board's lien for rates.
60. Ship-owner's lien for freight and other charges.
61. Sale of goods after two months if rates or rent are not paid or lien for freight is not discharged.
62. Disposal of goods not removed from premises of Board within time limit.
63. Application of sale proceeds.
64. Recovery of rates and charges by distress of vessel.
65. Grant of port-clearance after payment of rates.

CHAPTER VII**BORROWING POWERS OF BOARD**

66. Power to raise loans.
67. Port Trust securities.
68. Right of survivors of joint or several payees of securities.
69. Power of one or two or more joint holders to grant receipts.
70. Indorsements to be made on security itself.
71. Indorser of security not liable for amount thereof.
72. Impression of signature on securities.
73. Issue of duplicate securities.
74. Issue of converted, etc., securities.
75. Discharge in certain cases.
76. Power of Board to make regulations.
77. Place and currency of loans raised by Board.
78. Security for loans taken out by Board.
79. Remedies of Government in respect of loans made to Boards.
80. Power of Board to repay loans before due date.

SECTIONS

81. Establishment of sinking fund.
82. Investment and application of sinking fund.
83. Examination of sinking fund.
84. Power of Board to raise loans on short-term bills.
85. Power of Board to take temporary loans or overdrafts.
86. Power of Board to borrow money from International Bank for Reconstruction and Development or other foreign institutions.

CHAPTER VIII

REVENUE AND EXPENDITURE

87. General account of port.
88. Application of moneys in general account.
89. Power to transfer moneys from general account to pilotage account and vice versa.
90. Establishment of reserve funds.
91. Power to reserve Port Trust securities for Board's own investments.
92. Prior sanction of Central Government to charge expenditure to capital.
93. Works requiring sanction of Board or Central Government.
94. Powers of Chairman as to execution of works.
95. Power of Board to compound or compromise claims.
96. Writing off of losses.
97. Powers, etc., of Board as Conservator or Body appointed under section 36 of Indian Ports Act.
98. Budget estimates.
99. Preparation of supplemental estimates.
100. Re-appropriation of amounts in estimate.
101. Adherence to estimate except in emergency.
102. Accounts and audit.
103. Publication of audit report.
104. Board to remedy defects and irregularities pointed out in audit report.
105. Central Government to decide difference between Board and auditors.

CHAPTER IX**SUPERVISION AND CONTROL OF CENTRAL GOVERNMENT****SECTIONS**

106. Administration report.
107. Submission of statements of income and expenditure to Central Government.
108. Power of Central Government to order survey or examination of works of Board.
109. Power of Central Government to restore or complete works at the cost of Board.
110. Power of Central Government to supersede Board.
111. Power of Central Government to issue directions to Board.

CHAPTER X**PENALTIES**

112. Persons employed under this Act to be public servants for certain purposes.
113. Penalty for contravention of sections 37, 38, 40 and 41.
114. Penalty for setting up wharves, quays, etc., without permission.
115. Penalty for evading rates, etc.
116. Recovery of value of damage to property of Board.
117. Other offences.
118. Cognizance of offences.
119. Offences by companies.

CHAPTER XI**MISCELLANEOUS**

120. Limitation of proceedings in respect of things done under the Act.
121. Protection of acts done in good faith.
122. Power of Central Government to make rules.
123. General power of Board to make regulations.
124. Provisions with respect to regulations.
125. Power of Central Government to direct regulations to be made or to make regulations.

Not Corrected: See India Code

298

Major Port Trusts

[ACT 38 OF 1963]

SECTIONS

126. Power of Central Government to make first regulations.
127. Posting of certain regulations, etc.
128. Saving of right of Central Government and municipalities to use wharves, etc., for collecting duties and of power of Customs Officers.
129. Application of certain provisions of the Act to aircraft.
130. Power to evict certain persons from the premises of Board.
131. Alternative remedy by suit.
132. Requirements as to publication of notifications, orders, etc., in the Official Gazette.
133. Repeal.
134. Power to remove difficulties.

~~Not Corrected: See India Code, Vol VIII A, Pt I-p-637,~~

THE MAJOR PORT TRUSTS ACT, 1963

No. 38 OF 1963

[16th October, 1963]

An Act to make provision for the constitution of port authorities for certain major ports in India and to vest the administration, control and management of such ports in such authorities and for matters connected therewith.

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 Major Port Trusts Act, 1963.

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

(3) It applies in the first instance to the major ports of Cochin, Kandla and Vishakhapatnam, and the Central Government may, by notification in the Official Gazette, apply the provisions of this Act to such other major port (not being the major port of Bombay, Calcutta or Madras), and with effect from such date, as may be specified in the notification.

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

Definitions.

(a) "appointed day", in relation to a port, means the date on which this Act is made applicable to that port;

(b) "Board", in relation to a port, means the Board of Trustees constituted under this Act for that port;

(c) "Chairman" means the Chairman of a Board and includes the person appointed to act in his place under section 14;

¹ 29-2-1964] 12-9-1964, vide Notification No. G.S.R. 296, dated 28-2-1964, Gazette of India, Extraordinary, Pt. II, Sec. 3(i), p. 79.

(d) "Collector of Customs" has the same meaning as in the Customs Act, 1962;

(e) "Deputy Chairman" means the Deputy Chairman of a Board and includes the person appointed to act in his place under section 14;

(f) "dock" includes all basins, locks, cuts, entrances, graving docks, graving blocks, inclined planes, slipways, gridirons, moorings, transit-sheds, warehouses, tramways, railways and other works and things appertaining to any dock, and also the portion of the sea enclosed or protected by the arms or groynes of a harbour;

(g) "foreshore", in relation to a port, means the area between the high-water mark and the low-water mark relating to that port;

(h) "goods" includes livestock and every kind of movable property;

(i) "high-water mark", in relation to a port, means a line drawn through the highest points reached by ordinary spring-tides at any season of the year at the port;

(j) "Indian Ports Act" means the Indian Ports Act, 1908; 15 of 1908.

(k) "land" includes the bed of the sea or river below high-water mark, and also things attached to the earth or permanently fastened to anything attached to the earth;

(l) "low-water mark", in relation to a port, means a line drawn through the lowest points reached by ordinary spring-tides at any season of the year at that port;

(m) "major port" has the same meaning as in the Indian Ports Act;

(n) "master", in relation to any vessel or any aircraft making use of any port, means any person having for the time being the charge or control of such vessel or such aircraft, as the case may be, except a pilot, harbour master, assistant harbour master, dock master or berthing master of the port;

(o) "owner", (i) in relation to goods, includes any consignor, consignee, shipper or agent for the sale, custody, loading or unloading of such goods; and (ii) in relation to any vessel or any aircraft making use of any port, includes any part-owner, charterer, consignee, or mortgagee in possession thereof;

(p) "pier" includes any stage, stairs, landing place, hard, jetty, floating barge or pontoon, and any bridges or other works connected therewith;

(q) "port" means any major port to which this Act applies within such limits as may, from time to time, be defined by the Central Government for the purposes of this Act by notification in the Official Gazette, and, until a notification is so issued, within such limits as may have been defined by the Central Government under the provisions of the Indian Ports Act;

(r) "port approaches", in relation to a port, means those parts of the navigable rivers and channels leading to the port, in which the Indian Ports Act is in force;

(s) "Port Trust security" means debentures, bonds or stock certificates issued by a Board in respect of any loan contracted by it under the provisions of this Act or issued by any other authority for the payment of which the Board is liable under this Act;

(t) "prescribed" means prescribed by rules or regulations made under this Act;

(u) "public securities" means—

(i) promissory notes, debentures, stock or other securities of the Central Government or of any State Government:

Provided that securities, both the principal whereof and the interest whereon have been fully and unconditionally guaranteed by any such Government, shall be deemed, for the purposes of this clause, to be securities of such Government;

(ii) debentures or other securities for money issued by or on behalf of any municipal body, Improvement Trust or Port Trust under the authority of any law for the time being in force in India (including the Port Trust securities);

(v) "rate" includes any toll, due, rent, rate, fee, or charge leviable under this Act;

(w) "regulations" means regulations made under this Act;

(x) "rules" means rules made by the Central Government under this Act;

(y) "Trustee", in relation to a port, means a member of the Board constituted for the port;

(z) "vessel" includes a caisson;

(za) "wharf" includes any wall or stage and any part of the land or foreshore that may be used for loading or unloading goods, or for the embarkation or disembarkation of passengers and any wall enclosing or adjoining the same.

CHAPTER II

BOARD OF TRUSTEES AND COMMITTEES THEREOF

constitution
of Board of
Trustees.

3. (1) With effect from such date as may be specified by notification in the Official Gazette, the Central Government shall cause to be constituted in respect of any major port a Board of Trustees to be called the Board of Trustees of that port, which shall consist of the following Trustees, namely:—

(a) a Chairman to be appointed by the Central Government;

(b) a Deputy Chairman, if the Central Government deems fit to appoint one; and

(c) not more than ten persons to be appointed by the Central Government from amongst persons who are in its opinion capable of representing—

(i) labour employed in the port;

(ii) the Mercantile Marine Department;

(iii) the Customs Department;

(iv) the Government of the State in which the port is situated;

(v) the Defence Services;

(vi) the Indian Railways; and

(vii) such other interests as, in the opinion of the Central Government, ought to be represented on the Board:

Provided that before appointing any person under sub-clause (i), the Central Government shall obtain the opinion of the trade unions, if any, composed of persons employed in the port and registered under the Indian Trade Unions Act, 1926, and that the number of persons so appointed shall not be less than two;

(d) not more than twelve persons to be elected by such State or local bodies representing commercial, shipping or local interests as the Central Government may, from time to time, by notification in the Official Gazette, specify.

(2) A Trustee appointed by the Central Government under this Act may be appointed by name or by virtue of office.

(3) Every notification issued under clause (d) of sub-section (1) may also specify the number of Trustees that each of the bodies referred to in that clause may elect.

(4) The election of Trustees under clause (d) of sub-section (1) shall be held within such period as may, from time to time, be specified by the Central Government.

(5) The chief executive authority of every electing body shall communicate forthwith to the Central Government the result of any election held in pursuance of sub-section (4).

(6) The names of persons appointed or elected as Trustees shall be notified by the Central Government in the Official Gazette.

4. (1) Notwithstanding anything contained in section 3, the Central Government may, by notification in the Official Gazette, constitute in respect of any major port the first Board of Trustees thereof consisting of— First Board
of Trustees.

(a) a Chairman to be appointed by the Central Government;

(b) a Deputy Chairman, if the Central Government deems fit to appoint one; and

(c) such number of other Trustees, not exceeding twenty-two, as that Government may deem expedient, to be appointed by that Government from amongst persons who are in its opinion capable of representing,—

(i) labour employed in the port;

(ii) Government of the State in which the port is situated;

(iii) Government departments specified in sub-clauses (ii), (iii), (v) and (vi) of clause (c) of sub-section (1) of section 3; and

(iv) such other interests as, in the opinion of the Central Government, ought to be represented on the Board.

(2) Subject to the provisions of sub-section (3), the persons appointed as Trustees under sub-section (1) shall hold office during the pleasure of the Central Government.

(3) On the constitution of the Board under section 3, the first Board of Trustees shall cease to exist.

Board to be
body cor-
porate.

5. Every Board constituted under this Act 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 may by the name by which it is constituted, sue or be sued.

Disqualifi-
cation for
office of
Trustee.

6. A person shall be disqualified for being chosen as a Trustee, if he—

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) holds any office of profit under the Board:

Provided that this disqualification shall not apply to the Chairman or Deputy Chairman;

(d) has, directly or indirectly, any share or interest in any work done by order of the Board, or in any contract or employment, with, by, or on behalf of the Board:

Provided that no person shall be deemed to have a share or interest in such work, contract or employment by reason only of his—

(i) having a share in any company or firm which may contract with or be employed by or on behalf of the Board,
or

(ii) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted, or

(iii) being interested in any loan of money to the Board,
or

(iv) having a share or interest in any lease, sale, exchange or purchase of immovable property or any agreement for the same, or

(v) having a share or interest in any licence by the Board, or right by agreement or otherwise with the Board to the sole or preferential use of any railway siding or any berth for vessels in the docks belonging to the Board, or

(vi) having a share or interest in the occasional sale to the Board, to a value not exceeding ten thousand rupees in any one financial year, of any article in which he trades.

Not Corrected: See India Code

or 1963]

Major Port Trusts

305

7. (1) The Chairman and the Deputy Chairman shall hold office during the pleasure of the Central Government. Term of office of Trustees.

(2) Subject to the provisions of this Act,—

(a) every person elected or appointed by name to be a Trustee shall hold office to which he is elected or so appointed, for a term of two years commencing on the 1st day of April next following his election or appointment, as the case may be:

Provided that the term of office of a member elected to represent any body of persons shall come to an end as soon as he ceases to be a member of that body;

(b) a person appointed by virtue of an office to be a Trustee shall, until the Central Government by notification in the Official Gazette otherwise directs, continue to be a Trustee so long as he continues to hold that office.

8. (1) The Central Government shall remove a Trustee if he— Vacation of office of Trustees.

(a) becomes subject to any of the disqualifications mentioned in section 6; or

(b) refuses to act or becomes incapable of acting; or

(c) is, without the permission of the Board previously obtained, absent from six consecutive ordinary meetings of the Board; or

(d) is absent from the meetings of the Board for a period exceeding six consecutive months; or

(e) acts in contravention of the provisions of section 19.

(2) A Trustee may resign his office by giving notice in writing to the Chairman who shall forward the same to the Central Government, and on such resignation being accepted by that Government he shall be deemed to have vacated his office.

9. Any person ceasing to be a Trustee shall, unless disqualified under section 6, be eligible for re-appointment or re-election. Eligibility of Trustee for re-appointment or re-election.

10. (1) In the case of a vacancy in the office of a Trustee appointed by name or an elective Trustee caused by the expiration of the term of office of such Trustee, the appointment to fill such vacancy shall be made or an election to fill such vacancy shall be completed, Filling in of vacancies in office of Trustee.

as the case may be, within two months immediately preceding the date of expiration of such term.

(2) In the case of a vacancy in the office of a Trustee appointed by the Central Government by virtue of an office, the appointment to fill such vacancy shall be made within one month of the occurrence of such vacancy.

(3) In the case of a casual vacancy in the office of a Trustee appointed by name or an elective Trustee caused by the death of such Trustee or by virtue of the provisions of section 8, such vacancy shall be filled within one month of the occurrence thereof by appointment or election, as the case may be, in the manner hereinbefore specified:

Provided that the Trustee so appointed or elected shall retain his office so long only as the vacating Trustee shall have retained the same if such vacancy had not occurred:

Provided further that no such casual vacancy occurring within three months of the date of expiry of the normal term of office of the vacating trustee shall be filled up under this sub-section.

Saving provision for appointment of Trustee by Central Government after prescribed period.

Power of Central Government to extend time for election or appoint Trustees in default of election.

Term of office in case of certain Trustees.

11. Nothing in the foregoing provisions shall prevent a person being appointed by the Central Government to fill any vacancy in the office of a Trustee appointed by the Central Government after the expiration of the period specified in section 10, if for any reason it has not been possible for the Central Government to make the appointment within the said period.

12. (1) If the Central Government is satisfied that an electing body has failed to elect a Trustee within the period specified therefor in sub-section (4) of section 3 or section 10 for reasons beyond its control, the Central Government may, by notification in the Official Gazette, direct that the election shall be held on or before such date as may be specified in the notification.

(2) In the event of default being made in electing any Trustee within the period specified therefor under sub-section (4) of section 3 or under section 10, or as the case may be, on or before the date specified in the notification issued under sub-section (1), it shall be lawful for the Central Government to appoint a person by notification in the Official Gazette and the person so appointed shall be deemed to be an elective Trustee.

13. Where a Trustee is appointed under section 11 or under sub-section (2) of section 12 or elected in pursuance of a direction issued under sub-section (1) of section 12, the term of office of such Trustee

shall commence on the date on which his appointment or election, as the case may be, is notified in the Official Gazette and shall expire on the date on which his term of office would have expired if his appointment or election had been made within the period specified under section 10, or, as the case may be, under sub-section (4) of section 3.

14. If the Chairman or the Deputy Chairman 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, or is sent on deputation outside India for any of the purposes of this Act, the Central Government may appoint another person to act in his place during his absence:

Provided that the Chairman or the Deputy Chairman, while on deputation outside India may, if the Central Government by order so directs and subject to such conditions and restrictions as may be specified in that order, exercise such of the powers and perform such of the duties conferred or imposed on the Chairman or the Deputy Chairman, as the case may be, by or under this Act as he may deem necessary, and the Chairman or Deputy Chairman while exercising such powers and performing such duties shall be deemed to be a Trustee notwithstanding anything to the contrary contained in this Act.

15. The Chairman and the Deputy Chairman shall be paid such salary and be governed by such terms and conditions of service as may, from time to time, be determined by the Central Government.

Conditions
of service
of Chairman
and Deputy
Chairman.

16. (1) A Board shall meet at such times and places and shall, subject to the provisions of sub-sections (2), (3) and (4), observe such rules of procedure in regard to the transaction of business at its meetings as may be provided by rules made under this Act.

Meetings of
Board.

(2) The Chairman or, in his absence, the Deputy Chairman, and in the absence of both, any person chosen by the Trustees present from among themselves, shall preside at meetings of the Board.

(3) All questions at a meeting of the Board shall be decided by a majority of the votes of the Trustees present and voting and, in the case of an equality of votes, the person presiding shall have a second or casting vote.

(4) No business shall be transacted at any meeting of the Board unless not less than five Trustees are present throughout such meeting.

Committees
of Board.

17. (1) A Board may, from time to time, constitute from amongst the Trustees one or more committees, each consisting of such number as the Board may consider necessary, for the purpose of discharging such of its functions as may be delegated to such committee or committees by the Board.

(2) A committee constituted under this section shall meet at such times and at such places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum) as may be provided by regulations made under this Act.

Fees and
allowances
payable to
Trustees.

18. The Trustees shall be paid by the Board 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 Board as may be provided by rules made under this Act:

Provided that no fees shall be payable to the Chairman, Deputy Chairman or any other Trustee who is a servant of the Government.

Restriction
of power of
Trustees
to vote in
certain cases.

19. No Trustee shall vote or take part in the discussion of any matter coming up for consideration at a meeting of the Board or any of its committees if the matter is one in which he has any direct or indirect pecuniary interest by himself or his partner, or in which he is interested professionally on behalf of a client or as agent for any person other than the Government or a local authority or a trade union registered under the Indian Trade Unions Act, 1926.

16 of 1926

Defects in
appoint-
ments or
election not
to invalidate
acts, etc.

20. No act or proceeding of a Board or of any of its committees shall be invalid merely by reason of—

(a) any vacancy therein or any defect in the constitution thereof, or

(b) any defect in the election or appointment of a person as a member thereof, or

(c) any Trustee having acted or taken part in any proceedings in contravention of section 19, or

(d) any irregularity in its procedure not affecting the merits of the case.

Delegation
of powers.

21. A Board may, with the approval of the Central Government, specify—

(a) the powers and duties conferred or imposed upon the Board by or under this Act, which may also be exercised or performed by the Chairman; and

(b) the powers and duties conferred or imposed on the Chairman by or under this Act, which may also be exercised or performed by the Deputy Chairman or any officer of the Board and the conditions and restrictions, if any, subject to which such powers and duties may be exercised and performed:

Provided that any powers and duties conferred or imposed upon the Deputy Chairman or any officer of the Board under clause (b) shall be exercised and performed by him subject to the supervision and control of the Chairman.

22. (1) It shall be the duty of the Chairman and the Deputy Chairman to attend every meeting of the Board unless prevented by sickness or other reasonable cause.

Duties of
Chairman
and Deputy
Chairman.

(2) The Chairman shall, as soon as possible, transmit to the Central Government a copy of the minutes of every meeting of the Board and shall furnish to that Government such reports, returns, documents or other information as it may, from time to time, call for.

(3) The Chairman shall exercise supervision and control over the acts of all employees of the Board in matters of executive administration and in matters concerning the accounts and records of the Board.

CHAPTER III

STAFF OF THE BOARD

23. A Board shall, from time to time, prepare and sanction a Schedule of the employees of the Board whom it deems necessary and proper to maintain for the purposes of this Act and such Schedule shall indicate therein the designations and grades of employees and the salaries, fees and allowances which are proposed to be paid to them.

Schedule of
Board's
staff.

24. (1) Subject to the provisions of the Schedule for the time being in force sanctioned by a Board under section 23, the power of appointing any person to any post, whether temporary or permanent, shall—

Power to
make
appoint-
ments.

(a) in the case of a post the incumbent of which is to be regarded as the Head of a department, be exercisable by the Central Government after consultation with the Chairman;

(b) in the case of a post [other than a post referred to in clause (a)], the maximum of the pay-scale for which (exclusive of allowances) exceeds such amount as the Central Government

may, from time to time, fix in this behalf, and where no such amount has been fixed, is not less than one thousand rupees, be exercisable by the Board;

(c) in the case of any other post, be exercisable by such authority as may be prescribed by regulations:

Provided that no person shall be appointed as a pilot at any port, who is not for the time being authorised by the Central Government under the provisions of the Indian Ports Act to pilot vessels at that port.

(2) The Central Government may, by order, specify any post the incumbent of which shall, for the purposes of this Act, be regarded as the Head of a department.

Power to promote, grant leave, etc., to employees of Board.

25. (1) Subject to any regulations made under section 28, the power of promoting, granting extension of service to, granting leave to, suspending, reducing, removing or dismissing or of disposing of any other question relating to the services of, the employees of a Board, including the power of dispensing with the services of any such employee otherwise than by reason of the misconduct of such employee, shall be exercised—

(a) in the case of a Head of a department or in the case of an employee holding a post referred to in clause (b) of sub-section (1) of section 24, by the Board;

(b) in any other case, by such authority as may be prescribed by regulations:

Provided that no such order, so far as the same involves extension of service, suspension, reduction in rank, removal or dismissal of a Head of a department, shall have effect until it is approved by the Central Government.

(2) Any employee of a Board (not being a Head of a department) aggrieved by an order involving his reduction in rank, removal or dismissal may, within such time and in such manner as may be provided for by regulations, prefer an appeal—

(a) to the Central Government, where such order is passed by the Board;

(b) to the board, where such order is passed by the Chairman;

(c) to the Chairman, in any other case:

Provided that where the person who passed the order becomes, by virtue of his subsequent appointment as the Chairman, the appellate authority in respect of the appeal against the order, such person shall forward the appeal to the Board and the Board in relation to that appeal shall be deemed to be the appellate authority for the purposes of this section.

26. A Board may appoint any person as Consulting Engineer to the Board otherwise than on the basis of payment of a monthly salary, but every such appointment shall be subject to the sanction of the Central Government.

Consulting
Engineer
to Board.

27. Notwithstanding anything contained in section 23, no post other than a post referred to in clause (c) of sub-section (1) of section 24 shall be created except with the sanction of the Central Government.

Sanction of
Central
Government
necessary in
case of crea-
tion of
certain
posts.
Power to
make regu-
lations.

28. A Board may make regulations, not inconsistent with this Act, to provide for any one or more of the following matters, namely:—

(a) the appointment, promotion, suspension, removal and dismissal of its employees;

(b) their leave, leave allowances, pensions, gratuities, compassionate allowances and travelling allowances and the establishment and maintenance of a Provident Fund or any other fund for their welfare;

(c) the terms and conditions of service of persons who become employees of the Board under clause (f) of sub-section (1) of section 29;

(d) the time and manner in which appeals may be preferred under sub-section (2) of section 25 and the procedure for deciding such appeals;

(e) any other matter which is incidental to, or necessary for, the purpose of regulating the appointment and conditions of service of its employees.

CHAPTER IV

PROPERTY AND CONTRACTS

29. (1) As from the appointed day in relation to any port—

(a) all property, assets and funds vested in the Central Government or, as the case may be, any other authority for the purposes of the port immediately before such day, shall vest in the Board;

Transfer of
assets and
liabilities of
Central
Govern-
ment, etc.,
to Board.

(b) all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done, by, with or for the Central Government or, as the case may be, the other authority immediately before such day, for or in connection with the purposes of the port, shall be deemed to have been incurred, entered into and engaged to be done by, with or for the Board;

(c) all non-recurring expenditure incurred by the Central Government or any State Government for or in connection with the purposes of the port up to such day and declared to be capital expenditure by the Central Government shall be treated as the capital provided by the Central Government or, as the case may be, the State Government to the Board;

(d) all rates, fees, rents and other sums of money due to the Central Government or, as the case may be, the other authority in relation to the port immediately before such day shall be deemed to be due to the Board;

(e) all suits and other legal proceedings instituted by or against the Central Government or, as the case may be, the other authority immediately before such day for any matter in relation to the port may be continued by or against the Board;

(f) every employee serving under the Central Government or, as the case may be, the other authority immediately before such day solely or mainly for or in connection with the affairs of the port shall become an employee of the Board, shall hold his office or service therein by the same tenure and upon the same terms and conditions of service as he would have held the same if the Board had not been established and shall continue to do so unless and until his employment in the Board is terminated or until his tenure, remuneration or terms and conditions of service are duly altered by the Board:

Provided that the tenure, remuneration and terms and conditions of service of any such employee shall not be altered to his disadvantage without the previous sanction of the Central Government.

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

of 1963]

Major Port Trusts

313

30. As from the appointed day, all rates, fees and other charges in relation to any port, shall, unless and until they are varied by the competent authority in accordance with the provisions of this Act, continue to be levied and collected at the same rate at which they were being levied and collected by the Central Government or, as the case may be, any other authority immediately before such day.

Existing
rates, etc.,
to continue
until altered
by Board.

31. A Board shall repay, at such intervals and on such terms and conditions as the Central Government may determine, the amount of capital provided under clause (c) of sub-section (1) of section 29 with interest at such rate as may be fixed by that Government and such repayment of capital or payment of interest shall be deemed to be part of the expenditure of the Board.

Repayment
of capital
with inter-
est.

1 of 1894.

32. Whenever any immovable property which is required for the purposes of the Board cannot be acquired by agreement, the Central Government may, at the request of the Board, procure the acquisition thereof under the provisions of the Land Acquisition Act, 1894, and on payment by the Board of the compensation awarded under that Act and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the Board.

Procedure
when
immovable
property
cannot be
acquired by
agreement.

33. Subject to the provisions of section 34, a Board shall be competent to enter into and perform any contract necessary for the performance of its functions under this Act.

Contracts by
Board.

34. (1) Every contract shall, on behalf of a Board, be made by the Chairman and shall be sealed with the common seal of the Board:

Mode of
executing
contracts on
behalf of
Board.

Provided that no contract whereof the value or amount exceeds such value or amount as the Central Government may from time to time fix in this behalf shall be made unless it has been previously approved by the Board:

Provided further that no contract for the acquisition or sale of immovable property or for the lease of any such property for a term exceeding thirty years, and no other contract whereof the value or amount exceeds such value or amount as the Central Government may from time to time fix in this behalf, shall be made unless it has been previously approved by the Central Government.

(2) Subject to the provisions of sub-section (1), the form and manner in which any contract shall be made under this Act shall be such as may be prescribed by regulations made in this behalf.

(3) No contract which is not made in accordance with the provisions of this Act and the regulations made thereunder shall be binding on the Board.

CHAPTER V

WORKS AND SERVICES TO BE PROVIDED AT PORTS

Power of
Board to
execute
works and
provide
appliances.

35. (1) A Board may execute such works within or without the limits of the port and provide such appliances as it may deem necessary or expedient.

(2) Such works and appliances may include—

(a) wharves, quays, docks, stages, jetties, piers and other works within the port or port approaches or on the foreshore of the port or port approaches, with all such convenient arches, drains, landing places, stairs, fences, roads, railways, bridges, tunnels and approaches and buildings required for the residence of the employees of the Board as the Board may consider necessary;

(b) buses, railways, locomotives, rolling stock, sheds, hotels, warehouses and other accommodation for passengers and goods and other appliances for carrying passengers and for conveying, receiving and storing goods landed, or to be shipped or otherwise;

(c) moorings and cranes, scales and all other necessary means and appliances for loading and unloading vessels;

(d) reclaiming, excavating, enclosing and raising any part of the foreshore of the port or port approaches which may be necessary for the execution of the works authorised by this Act, or otherwise for the purposes of this Act;

(e) such breakwaters and other works as may be expedient for the protection of the port;

(f) dredgers and other machines for cleaning, deepening and improving any portion of the port or port approaches or of the foreshore of the port or port approaches;

(g) lighthouses, lightships, beacons, buoys, pilot boats and other appliances necessary for the safe navigation of the port and of the port approaches;

(h) vessels, tugs or other boats for use within the limits of the port or beyond those limits, whether in territorial waters or otherwise, for the purpose of towing or rendering assistance to any vessel, whether entering or leaving the port or bound elsewhere, and for the purpose of saving or protecting life or property and for the purpose of landing, shipping or transhipping passengers or goods under section 42;

Not Corrected: See India Code

or 1963]

Major Port Trusts

315

(i) sinking of tube-wells, and equipment, maintenance and use of boats, barges and other appliances for the purpose of the supply of water at the port;

(j) engines and other appliances necessary for the extinguishing of fires.

36. A Board may undertake to carry out on behalf of any person any works or services or any class of works or services, on such terms and conditions as may be agreed upon between the Board and the person concerned.

Power of
Board to
undertake
certain
works.

37. (1) When any dock, berth, wharf, quay, stage, jetty or pier erected at any port or port approaches under the provisions of this Act has been completed with sufficient warehouses, sheds and appliances for receiving, landing or shipping goods or passengers from and upon sea-going vessels, the Board may, after obtaining the approval of the Collector of Customs and by notification published in three consecutive issues of the Official Gazette, declare that such dock, berth, wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping or for landing or for shipping goods or passengers from and upon sea-going vessels.

Power of
Board to
order
sea-going
vessels
to use
docks, whar
ves, etc.

(2) As from the date of the publication of such notification for the third time, it shall be lawful for the Board, from time to time, when there is room at such dock, berth, wharf, quay, stage, jetty or pier, to order to come alongside of such dock, berth, wharf, quay, stage, jetty or pier for the purpose of landing and shipping goods or passengers or for landing or for shipping the same, any sea-going vessel within the port or port approaches which has not commenced to discharge goods or passengers, or which being about to take in goods or passengers, has not commenced to do so:

Provided that before making such order, the Board shall have regard, as far as possible, to the convenience of such vessel and of the shippers, in respect of the use of any particular dock, berth, wharf, quay, stage, jetty or pier:

Provided further that if the Board is not the conservator of the port, the Board shall not itself make the order as aforesaid but shall require the conservator of the port, or other person exercising the rights, powers, and authorities of the conservator of the port, to make such order.

If accommodation sufficient, all sea-going vessels compelled to use docks, wharves, etc.

Power to order vessels not to come alongside of, or to be removed from, docks, wharves, etc.

Power of Central Government to exempt from obligation to use docks, wharves, etc.

Board to declare when vessels other than sea-going vessels compelled to use docks, wharves, etc.

38. When a sufficient number of docks, berths, wharves, quays, stages, jetties or piers have been provided at any port or port approaches as aforesaid, the Board may, after obtaining the approval of the Collector of Customs and by notification published in three consecutive issues of the Official Gazette, direct that no goods or passengers shall be landed or shipped from or upon any sea-going vessel within the port or port approaches otherwise than at such docks, berths, wharves, quays, stages, jetties or piers, except with the sanction of the Board and in accordance with such conditions as the Board may specify.

39. Any officer appointed by the Board in this behalf may, in cases of emergency or for any reason which appears to him sufficient, by notice in writing, order the master or owner or agent of any sea-going vessel not to bring such vessel alongside of, or to remove such vessel from, any dock, berth, wharf, quay, stage, jetty or pier belonging to or under the control of the Board, and, if such notice is not complied with, the Board may charge in respect of such vessel such sum as it thinks fit, not exceeding one thousand rupees for each day of twenty-four hours, or portion of such day, during which such vessel remains at such dock, berth, wharf, quay, stage, jetty or pier:

Provided that in the case of a vessel ordered to be removed, such charge shall not commence to be made till after the expiry of twelve hours from the service of such notice as aforesaid on the master or owner or agent of the vessel.

40. Notwithstanding anything contained in sections 37 and 38, the Central Government may, if in its opinion it is necessary in the public interest so to do, by general or special order, from time to time, permit certain specified vessels or classes of vessels to discharge or ship goods or certain specified goods or classes of goods, at such place in a port or within the port approaches, in such manner, during such period and subject to such payments to the Board and on such conditions as the Central Government may think fit.

41. (1) When any dock, berth, wharf, quay, stage, jetty or pier for receiving, landing or shipment of goods or passengers from or upon vessels, not being sea-going vessels, has been made and completed with all proper appliances in that behalf, the Board may, after obtaining the approval of the Collector of Customs, by order published in three consecutive issues of the Official Gazette,—

(i) declare that such dock, berth, wharf, quay, stage, jetty or pier is ready for receiving, landing or shipment of goods or passengers from or on vessels, not being sea-going vessels, and

Not Corrected: See India Code

(ii) direct that within certain limits to be specified therein it shall not be lawful, without the express sanction of the Board, to land or ship any goods or passengers out of, or into, any vessel, not being a sea-going vessel, of any class specified in such order, except at such dock, berth, wharf, quay, stage, jetty or pier.

(2) As from the date of the publication of the order mentioned in sub-section (1) for the third time, it shall not be lawful, without the consent of the Board, for any vessel of such class,—

(i) to land or ship any goods or passengers at any place within the limits so specified except at such dock, berth, wharf, quay, stage, jetty or pier; or

(ii) while within such limits, to anchor, fasten or lie within fifty yards of the ordinary low-water mark.

(3) If after the publication of such order, any such vessel shall, while within the limits so specified, so anchor, fasten or lie, it shall be lawful for the Board to cause the same to be removed out of the said limits at the expense of the master or owner or agent of the vessel.

42. (1) A Board shall have power to undertake the following services:—

Performance
of services
by Board or
other person

(a) landing, shipping or transhipping passengers and goods between vessels in the port and the wharves, piers, quays or docks belonging to or in the possession of the Board;

(b) receiving, removing, shifting, transporting, storing or delivering goods brought within the Board's premises;

(c) carrying passengers by rail or by other means within the limits of the port or port approaches, subject to such restrictions and conditions as the Central Government may think fit to impose; and

(d) receiving and delivering, transporting and booking and despatching goods originating in the vessels in the port and intended for carriage by the neighbouring railways, or *vice versa*, as a railway administration under the Indian Railways Act, 1890.

9 of 1890.

(2) A Board may, if so requested by the owner, take charge of the goods for the purpose of performing the service or services and shall give a receipt in such form as the Board may specify.

(3) Notwithstanding anything contained in this section, the Board may, with the previous sanction of the Central Government, authorise any person to perform any of the services mentioned in sub-section (1) on such terms and conditions as may be agreed upon.

(4) No person authorised under sub-section (3) shall charge or recover for such service any sum in excess of the amount leviable according to the scale framed under section 48 or section 49 or section 50.

(5) Any such person shall, if so required by the owner, perform in respect of goods any of the said services and for that purpose take charge of the goods and give a receipt in such form as the Board may specify.

(6) The responsibility of any such person for the loss, destruction or deterioration of goods of which he has taken charge shall, subject to the other provisions of this Act, be that of a bailee under sections 151, 152 and 161 of the Indian Contract Act, 1872.

9 of 1872.

(7) After any goods have been taken charge of and a receipt given for them under this section, no liability for any loss or damage which may occur to them shall attach to any person to whom a receipt has been given or to the master or owner of the vessel from which the goods have been landed or transhipped.

Responsibility of Board for loss, etc., of goods.

43. (1) Subject to the provisions of this Act, the responsibility of any Board for the loss, destruction or deterioration of goods of which it has taken charge shall,—

(i) in the case of goods received for carriage by railway, be governed by the provisions of the Indian Railways Act, 1890; and

9 of 1890

(ii) in other cases, be that of a bailee under sections 151, 152 and 161 of the Indian Contract Act, 1872, omitting the words "in the absence of any special contract" in section 152 of that Act:

9 of 1872

Provided that no responsibility under this section shall attach to the Board until a receipt mentioned in sub-section (2) of section 42 is given by the Board.

(2) A Board shall not be in any way responsible for the loss, destruction or deterioration of, or damage to, goods of which it has taken charge, unless notice of such loss or damage has been given within such period as may be prescribed by regulations made in this behalf from the date of the receipt given for the goods under sub-section (2) of section 42.

Accommodation to be provided for customs officers in wharves, etc., appointed under Customs Act.

44. Where the Collector of Customs has, under the provisions of any Act for the levy of duties of customs, appointed any dock, berth, wharf, quay, stage, jetty, pier, warehouse or shed or a portion of any warehouse or shed provided at any port under the provisions of this Act for the use of sea-going vessels to be an approved place for the landing or shipping of goods or a warehouse for the storing of dutiable goods on the first importation thereof without payment of duty,

within the meaning of the first-mentioned Act, the Board shall set apart and maintain such place on or adjoining such dock, wharf, quay, stage, jetty or pier, or in such warehouse or shed or portion thereof, for the use of officers of customs as may be necessary.

45. Notwithstanding that any dock, berth, wharf, quay, stage, jetty, pier, warehouse or shed or portion thereof at any port has, under the provisions of section 44, been set apart for the use of the officers of customs at the port, all rates and other charges payable under this Act in respect thereof, or for the storage of goods therein, shall be payable to the Board, or to such person or persons as may be appointed by the Board to receive the same.

46. (1) No person shall make, erect or fix within the limits of a port or port approaches any wharf, dock, quay, stage, jetty, pier, erection or mooring except with the previous permission in writing of the Board and subject to such conditions, if any, as the Board may specify.

(2) If any person makes, erects or fixes any wharf, dock, quay, stage, jetty, pier, erection or mooring in contravention of sub-section (1), the Board may, by notice, require such person to remove it within such time as may be specified in the notice and if the person fails so to remove it, the Board may cause it to be removed at the expense of that person.

47. (1) Where, as a result of an order published under section 38 or section 41, the use of any wharf, dock, berth, quay, stage, jetty or pier, made, fixed or erected by any person is rendered unlawful, the Board may, after hearing the person concerned, by order, close, remove, fill up or destroy such wharf, dock, berth, quay, stage, jetty or pier, or permit the use thereof to such person on payment of such rates and charges as the Board may, with the previous sanction of the Central Government, determine.

(2) Save as otherwise provided under sub-section (3) no person shall be entitled to claim compensation for any injury, damage or loss caused or alleged to have been caused by an order made under sub-section (1).

(3) If it is proved to the satisfaction of the Board that any such wharf, dock, berth, quay, stage, jetty or pier, was made, fixed or erected by any person with the previous permission of the authority competent to grant such permission, he shall be paid by the Board compensation the amount of which shall be determined in the manner

Compensation payable in certain cases where use of any private wharf, etc., rendered unlawful.

and in accordance with the principles hereinafter set out, that is to say—

- (a) in computing the compensation, there shall not be taken into account any rates or other charges which such person shall be liable to pay for using any wharf, dock, berth, quay, stage, jetty or pier provided by the Board;
- (b) the amount of compensation shall be calculated with reference to the cost of construction of such wharf, dock, berth, quay, stage, jetty or pier;
- (c) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;
- (d) where no such agreement can be reached, the Central Government shall appoint as arbitrator, a person who is, or has been, or is qualified for appointment as, a Judge of a High Court;
- (e) the Central Government may, in any particular case, nominate a person possessing special knowledge of any matter relating to any case under inquiry to assist the arbitrator in determining any question which has to be decided by him under this section, and where such nomination is made the person to be compensated may also nominate an assessor for the same purpose;
- (f) at the commencement of the proceeding before the arbitrator, the Board and the person to be compensated shall state what in their respective opinion is a fair amount of compensation;
- (g) the arbitrator shall, after hearing the dispute, make an award determining the amount of compensation which appears to him to be just and specify the person or persons to whom such compensation shall be paid;
- (h) where there is a dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof among such persons;
- (i) nothing in the Arbitration Act, 1940 shall apply to arbitrations under this section;
- (j) the arbitrator appointed under this section, while holding arbitration proceedings under this Act, shall have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—
 - (i) summoning and enforcing the attendance of any person and examining him on oath;

of 1963]

Major Port Trusts

321

- (ii) requiring the discovery and production of documents;
- (iii) receiving evidence on affidavits;
- (iv) issuing commissions for examination of witnesses or documents;

(k) every award shall also state the amount of costs incurred in the arbitration proceedings under this section and by what persons and in what proportions they are to be paid;

(l) any person aggrieved by an award of the arbitrator made under this section may, within thirty days from the date of the award, prefer an appeal to the High Court within whose jurisdiction the port is situated:

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

CHAPTER VI

IMPOSITION AND RECOVERY OF RATES AT PORTS

48. (1) Every Board shall from time to time frame a scale of rates at which, and a statement of the conditions under which, any of the services specified hereunder shall be performed by itself or any person authorised under section 42 at or in relation to the port or port approaches—

Scales of
rates for
services per-
formed by
Board or
other
person.

- (a) transhipping of passengers or goods between vessels in the port or port approaches;
 - (b) landing and shipping of passengers or goods from or to such vessels to or from any wharf, quay, jetty, pier, dock, berth, mooring, stage or erection, land or building in the possession or occupation of the Board or at any place within the limits of the port or port approaches;
 - (c) cranage or portage of goods on any such place;
 - (d) wharfage, storage or demurrage of goods on any such place;
 - (e) any other service in respect of vessels, passengers or goods, excepting the services in respect of vessels for which fees are chargeable under the Indian Ports Act.
- (2) Different scales and conditions may be framed for different classes of goods and vessels.

Scale of rates and statement of conditions for use of property belonging to Board.

49. (1) Every Board shall, from time to time, also frame a scale of rates on payment of which, and a statement of conditions under which, any property belonging to, or in the possession or occupation of, the Board, or any place within the limits of the port or the port approaches may be used for the purposes specified hereunder:—

- (a) approaching or lying at or alongside any buoy, mooring, wharf, quay, pier, dock, land, building or place as aforesaid by vessels;
- (b) entering upon or plying for hire at or on any wharf, quay, pier, dock, land, building, road, bridge or place as aforesaid by animals or vehicles carrying passengers or goods;
- (c) leasing of land or sheds by owners of goods imported or intended for export or by steamer agents;
- (d) any other use of any land, building, works, vessels or appliances belonging to or provided by the Board.

(2) Different scales and conditions may be framed for different classes of goods and vessels.

Consolidated rates for combination of services.

50. A Board may, from time to time, frame a consolidated scale of rates for any combination of the services specified in section 48 or for any combination of such service or services with any user or permission to use any property belonging to or in the possession or occupation of the Board, as specified in section 49.

Power to levy concessional rates in certain cases.

51. In framing scales under any of the foregoing provisions of this Chapter, the Board may prescribe a lower rate in respect of,—

- (a) coastal goods, that is to say, goods, other than imported goods as defined in the Customs Act, 1962, carried in a vessel 52 of 1962 from one Indian port to another Indian port:

Provided that the Board shall not make any discrimination between one Indian port and another such port in prescribing a lower rate under this section;

- (b) other goods, in special cases.

Prior sanction of Central Government to rates and conditions.

52. Every scale of rates and every statement of conditions framed by a Board under the foregoing provisions of this Chapter shall be submitted to the Central Government for sanction and shall have effect when so sanctioned and published by the Board in the **Official Gazette**.

Not Corrected: See India Code

53. A Board may, in special cases and for reasons to be recorded in writing, exempt either wholly or partially any goods or vessels or class of goods or vessels from the payment of any rate or of any charge leviable in respect thereof according to any scale in force under this Act or remit the whole or any portion of such rate or charge so levied.

Exemption from, and remission of, rates or charges.

54. (1) Whenever the Central Government considers it necessary in the public interest so to do, it may, by order in writing together with a statement of reasons therefor, direct any Board to cancel any of the scales in force or modify the same, within such period as that Government may specify in the order.

Power of Central Government to require modification or cancellation of rates.

(2) If any Board against whom a direction is made under sub-section (1) fails or neglects to comply with such direction within the specified period, the Central Government may cancel any of such scales or make such modifications therein as it may think fit:

Provided that before so cancelling or modifying any scale the Central Government shall consider any objection or suggestion which may be made by the Board during the specified period.

(3) When in pursuance of this section any of the scales has been cancelled or modified, such cancellation or modification shall be published by the Central Government in the Official Gazette and shall thereupon have effect accordingly.

55. No person shall be entitled to a refund of an overcharge made by a Board unless his claim to the refund has been preferred in writing by him or on his behalf to the Board within six months from the date of payment duly supported by all relevant documents:

Refund of overcharges.

Provided that a Board may of its own motion remit overcharges made in its bills at any time.

56. (1) When any Board is satisfied that any charge leviable under this Chapter has been short-levied or erroneously refunded, it may issue a notice to the person who is liable to pay such charge or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice:

Notice of payment of charges short-levied or erroneously refunded.

Provided that no such notice shall be issued after the expiry of two years,—

(a) when the charge is short-levied, from the date of the payment of the charge;

(b) where a charge has been erroneously refunded, from the date of the refund.

(2) The Board may, after considering the representation, if any, made by the person to whom notice is issued under sub-section (1), determine the amount due from such person and thereupon such person shall pay the amount so determined.

Board not to lease rates without sanction.

57. A Board shall not lease, farm, sell or alienate any power vested in it under this Act of levying rates without the prior sanction of the Central Government.

Time for payment of rates on goods.

58. Rates in respect of goods to be landed shall be payable immediately on the landing of the goods and rates in respect of goods to be removed from the premises of a Board, or to be shipped for export, or to be transhipped, shall be payable before the goods are so removed or shipped or transhipped.

Board's lien for rates.

59. (1) For the amount of all rates leviable by a Board under this Act in respect of any goods, and for the rent due to the Board for any buildings, plinths, stacking areas, or other premises on or in which any goods may have been placed, the Board shall have a lien on such goods, and may seize and detain the same until such rates and rents are fully paid.

(2) Such lien shall have priority over all other liens and claims, except for general average and for the ship-owner's lien upon the said goods for freight and other charges where such lien exists and has been preserved in the manner provided in sub-section (1) of section 60, and for money payable to the Central Government under any law for the time being in force.

Ship-owner's lien for freight and other charges.

60. (1) If the master or owner of any vessel or his agent, at or before the time of ~~landing~~ from such vessel any goods at any dock, wharf, quay, stage, jetty, berth, mooring or pier belonging to or in the occupation of a Board, gives to the Board a notice in writing that such goods are to remain subject to a lien for freight or other charges payable to the ship-owner, to an amount to be mentioned in such notice, such goods shall continue to be liable to such lien to such amount.

(2) The goods shall be retained in the custody of the Board at the risk and expense of the owners of the goods until such lien is discharged as hereinafter mentioned; and godown or storage rent shall be payable by the party entitled to such goods for the time during which they may be so retained.

(3) Upon the production before any officer appointed by the Board in that behalf of a document purporting to be a receipt for, or release from, the amount of such lien, executed by the person by

whom or on whose behalf such notice has been given, the Board may permit such goods to be removed without regard to such lien, provided that the Board shall have used reasonable care in respect to the authenticity of such document.

61. (1) A Board may, after the expiry of two months from the time when any goods have passed into its custody, or in the case of animals and perishable or hazardous goods after the expiry of such shorter period not being less than twenty-four hours after the landing of the animals or goods as the Board may think fit, sell by public auction such goods or so much thereof as, in the opinion of the Board, may be necessary—

Sale of
goods after
two months
if rates or
rent are not
paid or lien
for freight
is not
discharged.

(a) if any rates payable to the Board in respect of such goods have not been paid, or

(b) if any rent payable to the Board in respect of any place on or in which such goods have been stored has not been paid, or

(c) if any lien of any ship-owner for freight or other charges of which notice has been given has not been discharged and if the person claiming such lien for freight or other charges has made to the Board an application for such sale.

(2) Before making such sale, the Board shall give ten days' notice of the same by publication thereof in the Official Gazette and also in at least one of the principal local daily newspapers:

Provided that in the case of animals and perishable or hazardous goods, the Board may give such shorter notice and in such manner as, in the opinion of the Board, the urgency of the case admits of.

(3) If the address of the owner of the goods has been stated on the manifest of the goods or in any of the documents which have come into the hands of the Board, or is otherwise known, notice shall also be given to him by letter delivered at such address, or sent by post, but the title of a bona fide purchaser of such goods shall not be invalidated by reason of the omission to send such notice, nor shall any such purchaser be bound to inquire whether such notice has been sent.

(4) Notwithstanding anything contained in this section, arms and ammunition and controlled goods may be sold at such time and in such manner as the Central Government may direct.

Explanation.—In this section and section 62—

(a) “arms and ammunition” have the meanings respectively assigned to them in the Arms Act, 1959;

Disposal of
 goods not
 removed
 from
 premises
 of Board
 within time
 limit.

(b) "controlled goods" means goods the price or disposal of which is regulated under any law for the time being in force.

62. (1) Notwithstanding anything contained in this Act, where any goods placed in the custody of the Board upon the landing thereof are not removed by the owner or other person entitled thereto from the premises of the Board within one month from the date on which such goods were placed in their custody, the Board may, if the address of such owner or person is known, cause a notice to be served upon him by letter delivered at such address or sent by post, or if the notice cannot be so served upon him or his address is not known, cause a notice to be published in the Official Gazette and also in at least one of the principal local daily newspapers, requiring him to remove the goods forthwith and stating that in default of compliance therewith the goods are liable to be sold by public auction:

Provided that where all the rates and charges payable under this Act in respect of any such goods have been paid, no notice of removal shall be so served or published under this sub-section unless two months have expired from the date on which the goods were placed in the custody of the Board.

(2) The notice referred to in sub-section (1) may also be served on the agents of the vessel by which such goods were landed.

(3) If such owner or person does not comply with the requisition in the notice served upon him or published under sub-section (1), the Board may, at any time after the expiration of two months from the date on which such goods were placed in its custody, sell the goods by public auction after giving notice of the sale in the manner specified in sub-sections (2) and (3) of section 61.

(4) Notwithstanding anything contained in sub-section (1) or sub-section (3)—

(a) the Board may, in the case of animals and perishable or hazardous goods, give notice of removal of such goods although the period of one month or, as the case may be, of two months specified in sub-section (1) has not expired or give such shorter notice of sale and in such manner as, in the opinion of the Board, the urgency of the case requires;

(b) arms and ammunition and controlled goods may be sold in accordance with the provisions of sub-section (4) of section 61.

(5) The Central Government may, if it deems necessary so to do in the public interest, by notification in the Official Gazette, exempt any goods or classes of goods from the operation of this section.

Not Corrected: See India Code

of 1963]

Major Port Trusts

327

63. (1) The proceeds of every sale under section 61 or section 62 shall be applied in the following order—

Application
of sale pro-
ceeds.

(a) in payment of the expenses of the sale;

(b) in payment, according to their respective priorities, of the liens and claims excepted in sub-section (2) of section 59 from the priority of the lien of the Board;

(c) in payment of the rates and expenses of landing, removing, storing or warehousing the same, and of all other charges due to the Board in respect thereof.

(2) The surplus, if any, shall be paid on demand to the importer, owner or consignee of the goods, or to his agents.

64. (1) If the master of any vessel in respect of which any rates or penalties are payable under this Act, or under any regulations or orders made in pursuance thereof, refuses or neglects to pay the same or any part thereof on demand, the Board may distrain or arrest such vessel and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount so due to the Board, together with such further amount as may accrue for any period during which the vessel is under restraint or arrest, is paid.

Recovery of
rates and
charges by
distrain of
vessel.

(2) In case any part of the said rates or penalties, or of the cost of the distress or arrest, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrest has been so made, the Board may cause the vessel or other thing so distrained or arrested to be sold, and, with the proceeds of such sale, shall satisfy such rates or penalties and costs, including the costs of sale remaining unpaid, rendering the surplus (if any) to the master of such vessel on demand.

65. If a Board gives to the officer of the Central Government whose duty it is to grant the port-clearance of any vessel at the port, a notice stating that an amount therein specified is due in respect of rates, fines, penalties or expenses chargeable under this Act or under any regulations or orders made in pursuance thereof, against such vessel, or by the owner or master of such vessel in respect thereof, or against or in respect of any goods on board such vessel, such officer shall not grant such port-clearance until the amount so chargeable or due has been paid.

Grant of
port-clear-
ance after
payment of
rates.

CHAPTER VII

BORROWING POWERS OF BOARD

Power to
raise loans.

66. (1) A Board may, with the previous sanction of the Central Government and after due notification in the Official Gazette, raise loans for the purposes of this Act:

Provided that no such notification shall be necessary if a loan is obtained from the Central Government or a State Government.

(2) Loans may be raised by a Board in the open market on Port Trust securities issued by it or may be obtained from the Central Government or a State Government.

(3) The terms of all loans shall be subject to the approval of the Central Government.

Port Trust
securities.

67. (1) A Board may, with the sanction of the Central Government, prescribe the form in which Port Trust securities shall be issued by it and the mode in which, and the conditions subject to which, they may be transferred.

(2) The holder of any Port Trust security in any form may obtain in exchange therefor, upon such terms as the Board may from time to time determine, a Port Trust security in any other form prescribed by regulations.

(3) The right to sue in respect of moneys secured by Port Trust securities shall be exercisable by the holders thereof for the time being without preference in respect of priority of date.

Right of
survivors of
joint or
several
payees of
securities.

68. (1) Notwithstanding anything contained in section 45 of the Indian Contract Act, 1872—

9 of 1872.

(a) when any Port Trust security is payable to two or more persons jointly, and either or any of them dies, the Port Trust security shall be payable to the survivor or survivors of those persons, and

(b) when any such security is payable to two or more persons severally and either or any of them dies, the security shall be payable to the survivor or survivors of those persons, or to the representatives of the deceased, or to any of them.

(2) This section shall apply whether such death occurred or occurs before or after the appointed day.

(3) Nothing herein contained shall affect any claim which any representative of a deceased person may have against the survivor

Not Corrected: See India Code

of 1963]

Major Port Trusts

329

or survivors under or in respect of any security to which sub-section (1) applies.

1 of 1956.
2 of 1912.

(4) For the purposes of this section, a body incorporated or deemed to be incorporated under the Companies Act, 1956, or the Co-operative Societies Act, 1912 or any other enactment for the time being in force, whether within or without India, shall be deemed to die when it is dissolved.

69. Where two or more persons are joint holders of any Port Trust security, any one of those persons may give an effectual receipt for any interest payable in respect of such security unless notice to the contrary has been given to the Board by any other of the holders.

26 of 1881.

70. Notwithstanding anything in section 15 of the Negotiable Instruments Act, 1881, no indorsement of a Port Trust security, which is transferable by indorsement, shall be valid unless made by the signature of the holder inscribed on the back of the security itself.

26 of 1881.

71. Notwithstanding anything in the Negotiable Instruments Act, 1881, a person shall not by reason only of his having indorsed any Port Trust security be liable to pay any money due, either as principal or as interest, thereunder.

72. (1) The signature of the person authorised to sign Port Trust securities on behalf of the Board may be printed, engraved or lithographed or impressed by such other mechanical process, as the Board may direct, on such securities.

(2) A signature so printed, engraved, lithographed or otherwise impressed shall be as valid as if it had been inscribed in the proper handwriting of the person so authorised.

73. (1) When any Port Trust security is alleged to have been lost, stolen or destroyed either wholly or in part, and a person claims to be the person to whom but for the loss, theft or destruction it would be payable, he may, on application to the Board and on producing proof to its satisfaction of the loss, theft or destruction and of the justice of the claim and on payment of such fee, if any, as may be prescribed by regulations, obtain from the Board an order for—

(a) the payment of interest in respect of the security said to be lost, stolen or destroyed, pending the issue of a duplicate security; and

(b) the issue of a duplicate security payable to the applicant.

Power of
one or two
or more
joint holders
to grant
receipts.

Indorse-
ments to be
made on se-
curity itself.

Indorser of
security not
liable for
amount
thereof.

Impression
of signature
on securi-
ties.

Issue of
duplicate
securities.

(2) An order shall not be passed under sub-section (1) until after the issue by the Board of the prescribed notification of the loss, theft or destruction.

(3) A list of the securities in respect of which an order is passed under sub-section (1) shall be published in such manner as the Board may prescribe.

(4) If at any time before the Board becomes discharged under the provisions of this Act from liability in respect of any security the whole of which is alleged to have been lost, stolen or destroyed, such security is found, any order passed in respect thereof under this section shall be cancelled.

Issue of converted, etc., securities.

74. (1) A Board may, subject to such conditions as it may prescribe, on the application of a person claiming to be entitled to a Port Trust security or securities issued by it, on being satisfied of the justice of the claim and on delivery of the security or securities received in such manner and on payment of such fee, if any, as it may prescribe, convert, consolidate or sub-divide the security or securities, and issue to the applicant a new security or securities accordingly.

Discharge in certain cases.

(2) The conversion, consolidation or sub-division referred to in sub-section (1) may be into a security or securities of the same or different classes or of the same or different loans.

75. Notwithstanding anything contained in the Indian Limitation Act, 1908—

9 of 1908.

(i) on payment of the amount due on a Port Trust security on or after the date on which payment becomes due, or

(ii) when a duplicate security has been issued under section 73, or

(iii) when a new security or securities has or have been issued upon conversion, consolidation or sub-division under section 74,

the Board shall be discharged from all liability in respect of the security or securities so paid or in place of which a duplicate or new security or securities has or have been issued—

(a) in the case of payment—after the lapse of six years from the date on which payment was due;

(b) in the case of a duplicate security—after the lapse of six years from the date of the publication under sub-section (3) of section 73 of the list in which the security is first mentioned or from the date of the last payment of interest on the original security, whichever date is later;

(c) in the case of a new security issued upon conversion, consolidation or sub-division—after the lapse of six years from the date of the issue thereof.

76. A Board may, from time to time, make regulations to provide for all or any of the following matters, namely:

Power of
Board to
make regula-
tions.

(a) the person, if any, authorised to sign, and the mode of affixing the corporate seal and of attestation of documents relating to Port Trust securities issued or to be issued by the Board;

(b) the manner in which payment of interest in respect of such Port Trust securities is to be made, recorded and acknowledged;

(c) the circumstances and the manner in which such Port Trust securities may be renewed;

(d) the circumstances in which such securities must be renewed before further payment of interest thereon can be claimed;

(e) the form in which such securities delivered for renewal, conversion, consolidation or sub-division are to be received;

(f) the proof which is to be produced by a person applying for duplicate securities;

(g) the form and manner of publication of the notification mentioned in sub-section (2) of section 73 and the manner of publication of the list mentioned in sub-section (3) of that section;

(h) the nature and amount of indemnity to be given by a person applying for the payment of interest on Port Trust securities alleged to have been wholly or partly lost, stolen or destroyed, or for the issue of duplicate Port Trust securities;

(i) the conditions subject to which Port Trust securities may be converted, consolidated or sub-divided;

(j) the amounts for which stock certificate may be issued;

(k) generally, all matters connected with the grant of duplicate, renewed, converted, consolidated and sub-divided securities;

(l) the fees to be paid in respect of the issue of duplicate securities and of the renewal, conversion, consolidation and sub-division of Port Trust securities;

(m) the fees to be levied in respect of the issue of stock certificates.

Place and currency of loans raised by Board.

77. All loans contracted by a Board under this Act shall be raised in India, and in Indian currency, unless the Central Government, by notification in the Official Gazette, otherwise directs.

Security for loans taken out by Board.

78. All loans raised by a Board under this Act shall be a first charge on—

(a) the property vested, or which may hereafter during the currency of the loans become vested, in the Board other than any sum set apart by the Board as the sinking fund for the purpose of paying off any loan; and

(b) the rates leviable by the Board under this Act.

Remedies of Government in respect of loans made to Boards.

79. The Central Government or a State Government shall have in respect of loans made by it to a Board, or of loans made to any other authority for the repayment of which the Board is legally liable, the same remedies as holders of Port Trust securities issued by the Board; and such Government shall not be deemed to possess any prior or greater rights in respect of such loans than holders of such Port Trust securities:

Provided that where the terms of any such loan made before the appointed day expressly provide that the loan shall have priority over all other loans in the matter of repayment by the Board, such loan shall have priority.

Power of Board to repay loans before due date.

80. A Board may, with the previous sanction of the Central Government, apply any sums, out of moneys which may come into its hands under the provisions of this Act and which can be so applied without prejudicing the security of the other holders of Port Trust securities, in repaying to the Government any sum which may remain due to it in respect of the principal of any loan although the time fixed for the repayment of the same may not have arrived:

Provided that no such repayment shall be made of any sum less than ten thousand rupees; and that, if such repayment is made, the amount of interest in each succeeding instalment shall be so adjusted as to represent exactly the interest due on the outstanding principal.

Establishment of sinking fund.

81. (1) In respect of every loan raised by a Board under this Act, which is not repayable before the expiration of one year from the date of the loan, the Board shall set apart half-yearly out of its income as a sinking fund a sum sufficient to liquidate the loan within a period which shall not in any case, unless the previous consent of the Central Government has been obtained, exceed thirty

years; but the maximum period shall not in any case exceed sixty years:

Provided that a sinking fund need not in the absence of any stipulation to that effect be established in the case of loans taken by the Board from the Central Government or any State Government.

(2) Where any sinking fund has, before the appointed day, been established by any authority in respect of a loan raised by it for which loan the Board is liable under this Act, the sinking fund so established by that authority shall be deemed to have been established by the Board under this section.

82. (1) The sums so set apart by a Board under sub-section (1) of section 81 and the sums forming part of any sinking fund referred to in sub-section (2) of that section shall be invested in public securities or in such other securities as the Central Government may approve in this behalf, and shall be held in trust for the purposes of this Act by two Trustees, one being the Board and the other a person appointed by the Central Government.

Investment
and applica-
tion of sink-
ing fund.

(2) A Board may apply the whole or any part of the sums accumulated in any sinking fund in or towards the discharge of the moneys for the repayment of which the fund has been established:

Provided that it pays into the fund in each year, and accumulates until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been produced by the sinking fund, or the part of the sinking fund so applied.

83. (1) A sinking fund established for the liquidation of any loan shall be subject to annual examination by such person as may be appointed by the Central Government in this behalf, and the person so appointed shall ascertain whether the cash and the current market value of the securities at the credit of the fund are actually equal to the amount which would have been accumulated had investments been regularly made and had the rate of interest as originally estimated been obtained thereon.

Examination
of sinking
fund.

(2) A Board shall pay forthwith into the sinking fund any amount which the person appointed under sub-section (1) to conduct the annual examination of the fund may certify to be deficient, unless the Central Government specifically sanctions a gradual readjustment.

(3) If the cash and the current market value of the securities at the credit of a sinking fund are in excess of the amount which should be at its credit, the person appointed under sub-section (1)

shall certify the amount of this excess, and the Board may, with the previous sanction of the Central Government,—

- (a) withdraw the whole or any part of the certified excess in which case the Trustees in whose names the sinking fund is invested under sub-section (1) of section 82, shall forthwith transfer securities of the requisite current market value, or cash and securities of the requisite current market value, to the Board, or
- (b) reduce or discontinue the half-yearly contributions to the sinking fund required under section 81, or
- (c) adopt a combination of these measures.

Power of
Board to
raise loans
on short-
term bills.

84. Nothing contained in this Act shall be deemed to affect the power of the Board to raise loans under the Local Authorities Loans Act, 1914.

9 of 1914.

Power of
Board to
take
temporary
loans or
overdrafts.

85. Notwithstanding anything contained in this Act, a Board may borrow moneys by means of temporary overdraft or otherwise by pledging the securities held by the Board in its reserve funds or on the security of the fixed deposits of the Board in its banks:

Provided that such temporary overdrafts or other loans—

- (a) shall not at any time have a longer currency than six months; and
- (b) shall not be taken, without the previous sanction of the Central Government, if at any time in any year the amount of such overdrafts or other loans exceeds such amount not exceeding ten lakhs of rupees, as the Central Government may fix in this behalf:

Provided further that all moneys so borrowed by temporary overdrafts or otherwise shall be expended for the purposes of this Act.

Powers of
Board to
borrow
money from
International Bank
for Recon-
struction and
Development
or other
foreign
institutions.

86. Notwithstanding anything contained in this Act or any other law for the time being in force, a Board may, with the previous sanction of the Central Government and on such terms and conditions as may be approved by that Government, raise for the purposes of this Act loans in any currency or currencies from the International Bank for Reconstruction and Development or from any other bank or institution in any country outside India; and no other provision of this Chapter shall apply to or in relation to any such loan unless the terms and conditions of the loan or the approval thereof by the Central Government otherwise provide.

CHAPTER VIII

REVENUE AND EXPENDITURE

87. All moneys received by or on behalf of a Board under the provisions of this Act, and all moneys received by it as the Conservator of the port and of the port approaches or as the body appointed under sub-section (1) of section 36 of the Indian Ports Act excluding all fees and all fines and penalties creditable to the pilotage account of the port under sub-section (5a) of that section, shall be credited to a fund called the general account of the port.

88. (1) The moneys credited to the general account under section 87, shall, subject to the provisions of section 89 of this Act and of section 36 of the Indian Ports Act, be applied by the Board in payment of the following charges, namely:—

(a) the interest and instalments of principal due in respect of any loan that may have been raised or obtained by the Board or for the repayment of which the Board may be liable, and payments to the sinking fund established for such loan;

(b) the salaries, fees, allowances, pensions, gratuities, compassionate allowances or other moneys due to—

(i) the Chairman, Deputy Chairman and other Trustees;

(ii) the employees of the Board; and

(iii) the surviving relatives, if any, of such employees;

(c) the contributions, if any, payable to the Central Government or any State Government on account of the pension and leave allowance of any officer lent to the Board by such Government;

(d) the cost and expenses, if any, incurred by the Board in the conduct and administration of any provident or welfare fund or loan or special fund established by the Board;

(e) the contributions, if any, duly authorised to be made by regulations made under this Act to any such fund as is referred to in clause (d);

(f) any charges for which the Board may be liable under section 108 or section 109;

(g) such sums as may, from time to time, be agreed upon by the Board and a State Government as a reasonable contribution payable by the Board towards the expenses in connection

with the watch and ward functions of the police force which the State Government may establish and maintain for the protection of the port and the docks, warehouses and other property of the Board;

(h) the cost of repairs and maintenance of the property belonging to or vested in the Board and all charges upon the same and all working expenses;

(i) the cost of the execution and provision of any new work or appliance specified in section 35 which the Board may determine to charge to revenue;

(j) any expenditure incurred under section 36;

(k) any other expenditure which may be incurred by the Board generally for the purposes of this Act;

(l) any other charge which may on the application of the Board be specially sanctioned by the Central Government or for which the Board may be legally liable.

(2) All moneys standing at the credit of the Board which cannot immediately be applied in the manner or for the purposes specified in sub-section (1) shall—

(a) be deposited in the State Bank of India or in such scheduled bank or banks, and subject to such conditions as may, from time to time, be specified by the Central Government; or

(b) be invested in public securities or in such other securities as the Central Government may approve in this behalf; and the said securities shall be held in trust by the Board for the purposes of this Act.

Power to transfer moneys from general account to pilotage account and vice versa.

89. A Board may, with the previous sanction of the Central Government, apply any sum out of the moneys credited to the general account of the port towards meeting deficits, if any, in the pilotage account of the port maintained under section 36 of the Indian Ports Act or transfer the whole or part of any surplus funds in such pilotage account to the general account of the port.

Establishment of reserve funds.

90. (1) A Board may, from time to time, set apart such sums out of its surplus income as it thinks fit, as a reserve fund or funds for the purpose of expanding existing facilities or creating new facilities at the port or for the purpose of providing against any temporary decrease of revenue or increase of expenditure from transient causes or for purposes of replacement or for meeting expenditure arising from loss or damage from fire, cyclones, shipwreck or other accident or for any other emergency arising in the ordinary conduct of its work under this Act:

Provided that the sums set apart annually in respect of, and the aggregate at any time of, any such reserve fund or funds shall not exceed such amounts as may, from time to time, be fixed in that behalf by the Central Government.

(2) Any such reserve fund or funds may be invested in public securities or in such other securities as the Central Government may approve in this behalf.

91. (1) For the purposes of any investment which a Board is authorised to make by this Act, it shall be lawful for every Board to reserve and set apart any securities to be issued by it on account of any loan to which the consent of the Central Government has been given, provided that the intention to so reserve and set apart such securities has been notified as a condition to the issue of the loan.

Power to
reserve Port
Trust secu-
rities for
Board's own
investments.

(2) The issue by any Board of any such securities direct to and in the name of the Board shall not operate to extinguish or cancel such securities, but every security so issued shall be valid in all respects as if issued to, and in the name of, any other person.

(3) The purchase by a Board, or the transfer, assignment or indorsement to a Board or to the Trustees of the sinking fund set up by a Board, of any security issued by the Board, shall not operate to extinguish or cancel any such security but the same shall be valid and negotiable in the same manner and to the same extent as if held by, or transferred or assigned or indorsed to, any other person.

92. (1) No expenditure shall be charged by a Board to capital without the previous sanction of the Central Government:

Prior sanc-
tion of
Central
Government
to charge
expenditure
to capital.

Provided that a Board may without such sanction charge to capital expenditure not exceeding such limit as may be specified, and subject to such conditions as may be imposed, by the Central Government.

(2) Nothing in sub-section (1) shall be deemed to require the further sanction of the Central Government in any case where the actual expenditure incurred as a charge to capital exceeds the expenditure sanctioned in this behalf by the Central Government unless the excess is more than ten per cent. of the expenditure so sanctioned.

93. (1) No new work or appliance, the estimated cost of which exceeds such amount as may be fixed by the Central Government in this behalf, shall be commenced or provided by a Board, nor shall any contract be entered into by a Board in respect of any such new

Works
requiring
sanction of
Board or
Central
Govern-
ment.

work or appliance until a plan of, and estimate for, such work or appliance has been submitted to, and approved by, the Board; and, in case the estimated cost of any such new work or appliance exceeds such amount as may, from time to time, be fixed by the Central Government in this behalf, the sanction of the Central Government to the plan and estimate shall be obtained before such work is commenced or appliance provided.

(2) Nothing in sub-section (1) shall be deemed to require the further sanction of the Central Government in any case where the actual expenditure incurred does not exceed by more than ten per cent., the estimated cost so sanctioned.

Power of
Chairman
as to execu-
tion of
works.

94. Notwithstanding anything contained in section 93, the Chairman may direct the execution of any work the cost of which does not exceed such maximum limit as may be fixed by the Central Government in this behalf, and may enter into contracts for the execution of such works but in every such case the Chairman shall, as soon as possible, make a report to the Board of any such directions given or contracts entered into by him.

Power of
Board to
compound or
demand or
compromise
claims.

95. Every Board may compound or compromise any claim or demand or any action or suit instituted by or against it for such sum of money or other compensation as it deems sufficient:

Provided that no settlement shall be made under this section without the previous sanction of the Central Government if such settlement involves the payment by the Board of a sum exceeding such amount as may be specified by the Central Government in this behalf.

Writing off
losses.

96. (1) Subject to such conditions as may be specified by the Central Government, where a Board is of opinion that any amount due to or any loss, whether of money or of property, incurred by, the Board is irrecoverable, the Board may, with the previous approval of the Central Government, sanction the writing off finally of the said amount or loss:

Provided that no such approval of the Central Government shall be necessary where such irrecoverable amount or loss does not exceed, in any individual case, five thousand rupees or in the aggregate in any year, one lakh of rupees.

(2) Notwithstanding anything contained in sub-section (1), where the Chairman is of opinion that any amount due to, or any loss, whether of money or of property, incurred by the Board is irrecoverable, the Chairman may sanction the writing off finally of such amount or loss provided that such amount or loss does not

exceed, in any individual case, one thousand rupees or in the aggregate in any one year, twenty thousand rupees; and in every such case the Chairman shall make a report to the Board giving reasons for such sanction.

97. All the powers, authorities and restrictions contained in this Act in respect of the works by this Act authorised, shall apply to the works which may be executed by the Board as the Conservator of the port or as the body appointed under sub-section (1) of section 36 of the Indian Ports Act, not being works the cost of which is chargeable to the pilotage account of the port under sub-section (5b) of that section, and also to the sanction of such works, the estimates therefor, and the expenditure thereunder.

98. (1) A Board shall, on or before the thirty-first day of January in each year, hold a special meeting at which the Chairman of the Board shall submit an estimate of the income and expenditure of the Board for the next financial year, in such form as the Central Government may specify.

(2) A copy of such estimate shall be sent by post or otherwise to each Trustee so as to reach him not less than ten clear days prior to the date appointed for the special meeting referred to in sub-section (1).

(3) The Board shall consider the estimate at such meeting and may provisionally approve of it with or without modifications.

(4) The Board shall, on or before the tenth day of February, cause a copy of such estimate as provisionally approved by it, to be sent to the Central Government.

(5) The Central Government may sanction the estimate or may return it with remarks and may call for such additional information as it may deem necessary.

(6) When an estimate is returned under sub-section (5), the Board shall proceed to reconsider the estimate with reference to such remarks and shall furnish such additional information as the Central Government may call for and shall, if necessary, modify or alter the estimate and resubmit it to the Central Government.

(7) The Central Government shall sanction the estimate with or without modifications.

(8) Where any such estimate is not sanctioned by the Central Government before the commencement of the financial year to which it relates, the Central Government may authorise the Board to incur

such expenditure as may be necessary in the opinion of the Central Government until such time as the approval of the estimate by the Central Government is communicated to the Board.

**Preparation
of supple-
mental esti-
mates.**

99. A Board may in the course of any year for which an estimate has been sanctioned by the Central Government cause one or more supplemental estimates for the residue of such year to be prepared, and the provisions of section 98 shall, so far as may be, apply to such estimate as if it were an original annual estimate.

**Re-apro-
priation of
amounts in
estimates.**

100. Subject to any directions which the Central Government may give in this behalf, any sum of money or part thereof of which the expenditure has been authorised in an estimate for the time being in force sanctioned by the Central Government and which has not been so spent, may at any time be reappropriated by the Board to meet any excess in any other expenditure authorised in the said estimate:

Provided that no such re-appropriation shall be made from one major head of expenditure to another such head without the previous sanction of the Central Government.

**Adherence
to estimate
except in
emergency.**

101. (1) Subject to the provisions of section 100, no sum exceeding such amount as the Central Government may fix in this behalf shall, save in cases of pressing emergency, be expended by, or on behalf of, any Board unless such sum is included in some estimate of the Board at the time in force which has been finally sanctioned by the Central Government.

(2) If any sum exceeding such limit as may have been fixed in this behalf under sub-section (1) is so expended by any Board on a pressing emergency, the circumstances shall be forthwith reported by the Chairman to the Central Government, together with an explanation of the way in which it is proposed by the Board to cover such extra expenditure.

**Accounts
and audit.**

102. (1) A Board shall maintain proper accounts and other relevant records and prepare the annual statement of accounts, including the balance-sheet in such form as may be specified by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Board shall be audited once in every year by the Comptroller and Auditor-General of India or such other persons as may be appointed by him in this behalf and he shall in respect of such audit be paid by the Board such amount as the Central Government may determine and such amount shall be debit-able to the general account of the Board.

Not Corrected: See India Code

of 1963]

Major Port Trusts

341

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

103. (1) Within fourteen days after the audit and examination of the accounts of a Board have been completed, the Comptroller and Auditor-General of India shall forward copies of the audit report to the Central Government and to the Board. Publication of audit report.

(2) The Central Government shall cause every audit report to be laid for not less than thirty days before each House of Parliament as soon as may be after such report is received by that Government.

104. Every Board shall forthwith take into consideration any defects or irregularities that may be pointed out by the Comptroller and Auditor-General of India in the audit report on the income and expenditure of the Board and shall take such action thereon as the Board may think fit and shall also send a report of the action so taken to the Central Government. Board to remedy defects and irregularities pointed out in audit report.

105. If there is a difference of opinion between any Board and the Comptroller and Auditor-General of India on any point included in the audit report, and the Board is unable to accept and implement the recommendations, if any, made by him on such point, the matter shall forthwith be referred to the Central Government which shall pass final orders thereon and the Board shall be bound to give effect to such orders. Central Government to decide difference between Board and auditor.

CHAPTER IX

SUPERVISION AND CONTROL OF CENTRAL GOVERNMENT

106. As soon as may be after the first day of April in every year and not later than such date as may be fixed in this behalf by the Central Government, every Board shall submit to the Central Government a detailed report of the administration of the port during the preceding year ending on the thirty-first day of March, in such form as the Central Government may direct. Administration report.

Submission
of statements
of income
and expendi-
ture to
Central
Government.

107. (1) Every Board shall annually, or oftener if directed by the Central Government so to do, submit statements of its income and expenditure in such form and at such time as that Government may direct.

(2) A copy of all such statements shall be open to the inspection of the public at the office of the Board during office hours on payment of such fee for each inspection as may from time to time be fixed by the Board.

Power of
Central
Government
to order
survey or
examination
of works of
Board.

108. The Central Government may, at any time, order a local survey or examination of any works of a Board, or the intended site thereof and the cost of such survey and examination shall be borne and paid by the Board from and out of the moneys credited to the general account of the port.

Power of
Central
Government
to restore or
complete
works at the
cost of
Board.

109. If, at any time, any Board—

(a) allows any work or appliance constructed or provided by, or vested in, the Board to fall into disrepair; or

(b) does not, within a reasonable time, complete any work commenced by the Board or included in any estimate sanctioned by the Central Government; or

(c) does not, after due notice in writing, proceed to carry out effectually any work or repair or to provide any appliance which is necessary in the opinion of the Central Government for the purposes of this Act,

the Central Government may cause such work to be restored or completed or carried out, or such repairs to be carried out or such appliance to be provided, and the cost of any such restoration, completion, construction, repair or provision shall be paid by the Board from and out of the moneys credited to the general account of the port.

Power of
Central
Government
to supersede
Board.

110. (1) If, at any time, the Central Government is of opinion—

(a) that on account of a grave emergency, any Board is unable to perform the duties imposed on it by or under the provisions of this Act or of any other law, or

(b) that the Board has persistently made default in the performance of the duties imposed upon it by or under the provisions of this Act or of any other law and as a result of such

default, the financial position of the Board or the administration of the port has greatly deteriorated,

the Central Government may, by notification in the Official Gazette, supersede the Board for such period, not exceeding six months at a time, as may be specified in the notification:

Provided that before issuing a notification under this sub-section for the reasons mentioned in clause (b), the Central Government shall give a reasonable time of not less than three months to the Board to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Board.

(2) Upon the publication of a notification under sub-section (1) superseding the Board,—

(a) all the Trustees shall, as from the date of supersession, vacate their offices as such Trustees;

(b) all the powers and duties which may, by or under the provisions of this Act or of any other law, be exercised or performed by or on behalf of the Board, shall until the Board is reconstituted under clause (b) or clause (c) of sub-section (3) be exercised and performed by such person or persons as the Central Government may direct;

(c) all property vested in the Board shall, until the Board is reconstituted under clause (b) or clause (c) of sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may—

(a) extend the period of supersession for such further term, not exceeding six months, as it may consider necessary, or

(b) reconstitute the Board by fresh appointment and fresh election, and in such case, any persons who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for appointment or election, as the case may be, or

(c) reconstitute the Board by appointment only for such period as it may consider necessary and in such a case, the persons who vacated their offices under clause (a) of sub-section

(2) shall not be deemed disqualified for such appointment merely because they were Trustees when the Board was superseded:

Provided that the Central Government may, at any time before the expiration of the period of supersession, whether as originally specified under sub-section (1) or as extended under this sub-section, take action under clause (b) or clause (c) of this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest possible opportunity.

Power of
Central
Government
to issue
directions
to Board.

111. (1) Without prejudice to the foregoing provisions of this Chapter, every Board shall, in the discharge of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Board shall be given opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

CHAPTER X

PENALTIES

Persons
employed
under this
Act to be
public ser-
vants for
certain pur-
poses.

112. Every person employed by a Board under this Act shall, for the purposes of sections 161 to 171 (both inclusive), 184, 185 and 409 of the Indian Penal Code and for the purposes of the Prevention ^{45 of 1860,} of Corruption Act, 1947 be deemed to be a public servant within the ^{2 of 1947.} meaning of section 21 of the said Code.

Penalty for
contraven-
tion of
sections 37,
38, 40 and
41.

113. Whoever contravenes the provisions of any order issued under section 37 or section 38 or section 41 or fails to comply with any condition imposed under section 40 shall be punishable with fine which may extend to one thousand rupees, and where the contravention or failure is a continuing one, with further fine which may extend to one hundred rupees for every day after the first during which such contravention or failure continues.

Penalty for
setting up
wharves,
quays,
etc.,
without
permission.

114. Any person who contravenes the provisions of section 46 shall be punishable with fine which may extend to one thousand rupees for the first contravention, and with a further fine which may extend to one hundred rupees for every day after the first during which the contravention continues.

115. Any person who, with the intention of evading payment of the rates lawfully due, in respect of any goods or vessel carrying any goods, to the Board—
Penalty for
evading
rates, etc.

(a) understates or incorrectly gives the weight, quantity, value or description of such goods or the tonnage of such vessel in any document presented to any employee of the Board for the purpose of enabling him to determine such rates; or

(b) removes or attempts to remove or abets the removal of such goods or such vessel;

shall be punishable with fine which may extend to twice the amount of rates so due subject to a minimum of fifty rupees.

116. If, through the negligence of any person having the guidance or command of any vessel, or of any of the mariners or persons employed on such vessel, any damage is caused to any dock, wharf, quay, mooring, stage, jetty, pier or other work in the possession of any Board, the amount of such damage shall, on the application of the Board be recoverable, together with the cost of such recovery, by distress and sale, under a Magistrate's warrant, of a sufficient portion of the boats, masts, spares, ropes, cables, anchors or stores belonging to such vessel:

Recovery
of value of
damage to
property of
Board.

Provided that no Magistrate shall issue such a warrant until the master of the vessel has been duly summoned to appear before him and, if he appears, until he has been heard; and provided also that no such warrant shall issue if the vessel was at the time under the orders of a duly authorised employee of the Board and the damage caused was attributable to the order, act or improper omission of such employee.

117. Any person who contravenes any of the provisions of this Act or of any rule, regulation or order made thereunder, for the contravention of which no penalty is expressly provided thereunder, shall be punishable with fine which may extend to two hundred rupees.

118. No court inferior to that of a magistrate of the first class shall try any offence punishable under this Act or any rule or regulation made thereunder.

119. (1) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be

Offences by
companies.

deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to such punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary, or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means a 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.

CHAPTER XI

MISCELLANEOUS

Limitation
of proceed-
ings in
respect of
things done
under the
Act.

120. No suit or other proceeding shall be commenced against a Board or any member or employee thereof for anything done, or purporting to have been done, in pursuance of this Act until the expiration of one month after notice in writing has been given to the Board or him stating the cause of action, or after six months after the accrual of the cause of action.

Protection of
acts done in
good faith.

121. No suit or other legal proceeding shall lie against a Board or any member or employee thereof in respect of anything which is in good faith done or intended to be done under this Act or any rule or regulation made thereunder, or for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to or under the control of the Board.

Power of
Central
Government
to make
rules.

122. (1) The Central Government may, by notification in the Official Gazette, make rules for all or any of the following purposes, namely:—

(a) the times and places of the meetings of a Board and the procedure to be followed for the transaction of business at such meetings;

Not Corrected: See India Code

of 1963]

Major Port Trusts

347

(b) the fees and allowances payable to the members of a Board or of its committees;

(c) any other matter in respect of which rules may be made by the Central Government.

(2) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

(3) Every rule 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 in which it is so laid or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

123. Without prejudice to any power to make regulations contained elsewhere in this Act, a Board may make regulations consistent with this Act for all or any of the following purposes, namely:—

General power of Board to make regulations.

(a) for the times and places of the meetings of its committees and for the procedure to be followed for the transaction of business at such meetings;

(b) for the form and manner in which contracts shall be made by the Board;

(c) for the form of receipt to be given under sub-section (2) of section 42;

(d) for the period within which notice may be given under sub-section (2) of section 43;

(e) for the guidance of persons employed by the Board under this Act;

(f) for the safe and convenient use of the docks, wharves, quays, jetties, sheds, warehouses, railways, tramways and other works constructed by or vested in the Board under this Act;

(g) for the reception, portage, storage and removal of goods brought within the premises of the Board, for the exclusive conduct of these operations by the Board or persons employed by the Board; and for declaring the procedure to be

followed for taking charge of goods which may have been damaged before landing, or may be alleged to have been so damaged;

(h) for keeping clean the port, river or basins or the bank of the river and the works of the Board, and for preventing filth or rubbish being thrown therein or thereon;

(i) for the mode of payment of rates leviable by the Board under this Act;

(j) for regulating, declaring and defining the docks, wharves, quays, jetties, stages and piers vested in the Board on which goods shall be landed from vessels and shipped on board vessels;

(k) for regulating the manner in which, and the conditions under which, the loading and unloading of all vessels within the port or port approaches shall be carried out;

(l) for regulating the lighterage of cargo between ships or between ships and shore or between shore and ships;

(m) for the exclusion from the premises of the Board of disorderly or other undesirable persons and of trespassers;

(n) for ensuring the safety of the port;

(o) generally, for the efficient and proper administration of the port.

**Provisions
with respect
to regula-
tions.**

124. (1) No regulation made by the Board under this Act shall have effect until it has been approved by the Central Government and until such approval has been published in the Official Gazette.

(2) No such regulation shall be approved by the Central Government until the same has been published by the Board for two weeks successively in the Official Gazette and until fourteen days have expired from the date on which the same had been first published in that Gazette.

(3) Any regulation made under this Act other than a regulation made under section 28 may provide that a breach thereof shall be punishable with fine which may extend to two hundred rupees, and where the breach is a continuing one, with further fine which may extend to fifty rupees for every day after the first during which such breach continues.

125. (1) Whenever the Central Government considers necessary in the public interest so to do, it may, by order in writing together with a statement of reasons therefor, direct any Board to make any regulations for all or any of the matters specified in section 28 or section 76 or section 123 or to amend any regulations, within such period as the Central Government may specify in this behalf:

Provided that the Central Government may extend the period specified by it by such period or periods as it may consider necessary.

(2) If any Board, against whom a direction is issued by the Central Government under sub-section (1), fails or neglects to comply with such direction within the period allowed under sub-section (1), that Government may make the regulations or amend the regulations, as the case may be, either in the form specified in the direction or with such modifications thereof as the Central Government may think fit:

Provided that before so making or amending the regulations the Central Government shall consider any objection or suggestion made by the Board within the said period.

(3) Where in pursuance of sub-section (2), any regulations have been made or amended, the regulations so made or amended shall be published by the Central Government in the Official Gazette and shall thereupon have effect accordingly.

126. Notwithstanding anything contained in this Act, the first regulations under this Act shall be made by the Central Government and shall have effect on being published in the Official Gazette.

127. the text of the regulations made under clause (e) to (n) of section 123 and the scale of rates together with a statement of conditions framed by any Board under Chapter VI shall be prominently posted by the Board in English, in Hindi and in the regional language on special boards to be maintained for the purpose at the wharves, docks, piers and other convenient places on the premises of the Board.

128. Nothing in this Act shall affect—

(1) the right of the Central Government to collect customs duties or of any municipality to collect town duties at any dock, berth, wharf, quay, stage, jetty or pier in the possession of a Board, or

Saving of right of Central Government and municipalities to use wharves, etc., for collecting

duties and
of power of
Customs
Officers.

Application
of certain
provisions
of the Act
to aircraft.

Power to
evict
certain
persons
from the
premises
of Board.

(2) any power or authority vested in the customs authorities under any law for the time being in force.

129. The provisions of sections 35, 37, 38, 39, 40, 41, 42, 48, 49, 50, 64, 65, 115, 121, 123 and 124 shall apply in relation to all aircraft making use of any port while on water as they apply in relation to vessels.

130. (1) Notwithstanding anything contained in any other law for the time being in force, if a Board in exercise of the powers conferred on it by regulations made under this Act cancel the allotment of any premises made to any employee of the Board, the Board may, by notice in writing, order such allottee or any other person who may be in occupation of the whole or any part of the premises to surrender or deliver possession thereof to the Board or a person appointed by the Board in that behalf within such period as may be specified in the notice.

Explanation.—For the purposes of this section, “premises” means any building or part of a building and includes—

- (i) the gardens, grounds and out-houses, if any, appertaining to such building or part of a building;
- (ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof; and
- (iii) any furniture, books or other things belonging to the Board and found in such building or part of a building.

(2) If any allottee or other person refuses or fails to comply with an order made under sub-section (1), any magistrate of the first class may, on application made by or on behalf of the Board, order any police officer, with proper assistance, to enter into the premises and evict any person from, and take possession of, the premises and to deliver the same to the Board or a person appointed by the Board in that behalf and the police officer may, for the purpose, use such force as may be necessary.

(3) Any such notice as is referred to in sub-section (1) may be served—

- (a) by delivering or tendering it to the allottee or any other person who may be in occupation of the whole or any part of the premises, or
- (b) if it cannot be so delivered or tendered, by affixing it on the outer door or some other conspicuous part of the premises, or
- (c) by registered post.

Not Corrected: See India Code

of 1963]

Major Port Trusts

351

131. Without prejudice to any other action that may be taken under this Act, a Board may recover by suit any rates, damages, expenses, costs, or in the case of sale the balance thereof, when the proceeds of sale are insufficient, or any penalties payable to, or recoverable by, the Board under this Act or under any regulations made in pursuance thereof.

132. (1) Any requirement in this Act that a notification, order, rule or regulation issued or made by a Board or by the Central Government shall be published in the Official Gazette, shall, unless otherwise expressly provided in this Act, be construed as a requirement that the notification, order, rule or regulation shall—

Requirements as to publication of notifications, orders, etc., in the Official Gazette.

(a) where it is issued or made by the Board, be published in the Official Gazette of the State in which the port is situated, and

(b) where it is issued or made by the Central Government, be published in the Gazette of India.

(2) Any notification, order, rule or regulation issued or made by the Central Government shall, for general information, be also republished in the Official Gazette of the State in which the port is situated.

Bombay
Act 7 of
1882.

133. (1) On the application of this Act to the port of Kandla, the Bombay Landing and Wharfage Fees Act, 1882 shall cease to have force in relation to that port.

Madras
Act 3 of
1885.

(2) On the application of this Act to the ports of Cochin and Vishakhapatnam, the Madras Outports Landing and Shipping Fees Act, 1885 shall cease to have force in relation to those ports.

(3) If immediately before the application of this Act to any other port, there is in force in that port any law which corresponds to this Act or to any provision thereof, that corresponding law shall, on such application, cease to have force in relation to that port.

134. If any difficulty arises in giving effect to the provisions of this Act, particularly in relation to the transition from the enactments repealed by this Act to the provisions of this Act, the Central Government may, by general or special order, do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty.

Power to remove difficulties.

Rep. by Act 56 of 1974, S.2 & Sch I

THE INDUSTRIAL EMPLOYMENT (STANDING ORDERS) AMENDMENT ACT, 1963

NO. 39 OF 1963

[2nd December, 1963]

An Act further to amend the Industrial Employment (Standing Orders) Act, 1946.

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

Short title and commencement. 1. (1) This Act may be called the Industrial Employment (Standing Orders) Amendment Act, 1963.

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

Amendment of section 1. 2. In section 1 of the Industrial Employment (Standing Orders) Act, 1946 (hereinafter referred to as the principal Act),—

20 of 1946

(i) in sub-section (3), the second proviso shall be omitted;

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

(4) Nothing in this Act shall apply to—

(i) any industry to which the provisions of Chapter VII of the Bombay Industrial Relations Act, 1946 apply; or

Bombay
Act 11 of
1947.

(ii) any industrial establishment to which the provisions of the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 apply;

Madhya
Pradesh A.
26 of 1961.

¹ 23-12-1963; vide Notification No. S.O. 3594, dated 23-12-1963, Gazette of India, Extraordinary, Pt. II, Sec. 3(ii), p. 881.

Madhya
Pradesh
Act 26
of 1961.

Provided that notwithstanding anything contained in the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961, the provisions of this Act shall apply to all industrial establishments under the control of the Central Government.'

3. In section 2 of the principal Act, for clause (a), the following Amendment of section 2. clause shall be substituted, namely:

'(a) "appellate authority" means an authority appointed by the appropriate Government by notification in the Official Gazette to exercise in such area as may be specified in the notification the functions of an appellate authority under this Act:

Provided that in relation to an appeal pending before an Industrial Court or other authority immediately before the commencement of the Industrial Employment (Standing Orders) Amendment Act, 1963, that Court or authority shall be deemed to be the appellate authority.'

4. In section 10 of the principal Act, Amendment of section 10.

(i) in sub-section (2), the words 'the standing orders in which shall be indicated' shall be omitted;

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

'(4) Nothing contained in sub-section (2) shall apply to an industrial establishment in respect of which the appropriate Government is the Government of the State of Gujarat or the Government of the State of Maharashtra.'

5. Section 11 of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, Amendment of section 11. namely:

"(2) Clerical or arithmetical mistakes in any order passed by a Certifying Officer or appellate authority, or errors arising therein from any accidental slip or omission may, at any time, be corrected by that Officer or authority or the successor in office of such Officer or authority, as the case may be."

Insertion
of new
section
12A.

6. After section 12 of the principal Act, the following section shall be inserted, namely:—

Temporary
application
of model
standing
orders.

"12A. (1) Notwithstanding anything contained in sections 3 to 12, for the period commencing on the date on which this Act becomes applicable to an industrial establishment and ending with the date on which the standing orders as finally certified under this Act come into operation under section 7 in that establishment, the prescribed model standing orders shall be deemed to be adopted in that establishment, and the provisions of section 9, sub-section (2) of section 13 and section 13A shall apply to such model standing orders as they apply to the standing orders so certified.

(2) Nothing contained in sub-section (1) shall apply to an industrial establishment in respect of which the appropriate Government is the Government of the State of Gujarat or the Government of the State of Maharashtra.”.

Substitution
of new
section
for section
14A.

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

Delegation
of powers.

"14A. The appropriate Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act or any rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also—

(a) where the appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification;

(b) where the appropriate Government is a State Government, by such officer or authority subordinate to the State Government as may be specified in the notification.”.

Rep. by Act 56 of 1974, S-2 & Sch I

THE PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) AMENDMENT ACT, 1963

No. 40 OF 1963

[2nd December, 1963]

An Act further to amend the Public Premises (Eviction of Unauthorised Occupants) Act, 1958.

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

1. This Act may be called the Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1963. Short title.

2. In section 2 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1958 (hereinafter referred to as the principal Act), after clause (d), the following clause shall be inserted and shall be deemed always to have been inserted, namely:— Amendment of section 2.

(dd) "rent", in relation to any public premises, means the consideration payable periodically for the authorised occupation of the premises, and includes—

(i) any charge for electricity, water or any other services in connection with the occupation of the premises,

(ii) any tax (by whatever name called) payable in respect of the premises,

where such charge or tax is payable by the Central Government;

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

(a) in clause (a), after the words "gazetted officers of Government", the words, brackets, letter and figure "or officers of the equivalent rank of the Corporation or any committee or the authority referred to in clause (b) of section 2" shall be inserted;

(b) in clause (b), for the words "each estate officer", the words "the estate officers" shall be substituted.

Amend-
ment of
section 5.

4. In sub-section (2) of section 5 of the principal Act,—

(a) for the words "forty-five days", the words "thirty days" shall be substituted;

(b) the proviso shall be omitted.

Amend-
ment of
section 6.

5. In sub-section (2) of section 6 of the principal Act, after the words "rent or damages", the words "or costs," shall be inserted.

Amend-
ment of
section 7.

6. In section 7 of the principal Act,—

(a) in sub-section (2), the proviso shall be omitted;

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) No order under sub-section (1) or sub-section (2) shall be made against any person until after the issue of a notice in writing to the person calling upon him to show cause within such time as may be specified in the notice why such order should not be made, and until his objections, if any, and any evidence he may produce in support of the same, have been considered by the estate officer."

Amend-
ment of
section 9.

7. In section 9 of the principal Act,—

(a) in sub-section (2), for the words "thirty days" wherever they occur, the words "fifteen days" shall be substituted;

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

"(4A) The costs of any appeal under this section shall be in the discretion of the appellate officer."

Amend-
ment of
section 10.

8. To section 10 of the principal Act, the following words shall be added at the end, namely:—

"and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act".

Insertion of
new sections
10A, 10B,
10C and
10D.

Offences and
penalty.

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

"10A. (1) If any person who has been evicted from any public premises under this Act again occupies the premises without authority for such occupation, he shall be punishable

with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

(2) Any magistrate convicting a person under sub-section (1) may make an order for evicting that person summarily and he shall be liable to such eviction without prejudice to any action that may be taken against him under this Act.

10B. If the estate officer has reasons to believe that any persons are in unauthorised occupation of any public premises, the estate officer or any other officer authorised by him in this behalf may require those persons or any other person to furnish information relating to the names and other particulars of the persons in occupation of the public premises and every person so required shall be bound to furnish the information in his possession.

Power to obtain information.

10C. (1) Where any person against whom any proceeding for the determination of arrears of rent or for the assessment of damages is to be or has been taken dies before the proceeding is taken or during the pendency thereof, the proceeding may be taken or, as the case may be, continued against the heirs or legal representatives of that person.

Liability of heirs and legal representatives.

(2) Any amount due to the Central Government from any person whether by way of arrears of rent or damages or costs shall, after the death of the person, be payable by his heirs or legal representatives, but their liability shall be limited to the extent of the assets of the deceased in their hands.

10D. If any person refuses or fails to pay the arrears of rent payable under sub-section (1) of section 7 or the damages payable under sub-section (2) of that section or costs awarded to the Central Government under sub-section (4A) of section 9 or any portion of such rent, damages or costs, within the time, if any, specified therefor in the order relating thereto, the estate officer may issue a certificate for the amount due to the Collector who shall proceed to recover the same as an arrear of land revenue".

Recovery of rent, etc., as an arrear of land revenue.

10. In section 13 of the principal Act,—

Amend-
ment of
section 13.

(a) in sub-section (2), after clause (b), the following clause shall be inserted, namely:—

"(bb) the distribution and allocation of work to estate officers and the transfer of any proceeding pending before an estate officer to another estate officer;";

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

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

Special pro-
vision for
limitation.

11. For the removal of doubts, it is hereby declared that the amendments made by clause (a) of section 7 of this Act shall not apply to any order made under section 5 or section 7 of the principal Act before the commencement of this Act.

Not Corrected: See India Code, Vol V-A, Pt I, p. 205.

THE TEXTILES COMMITTEE ACT, 1963

No. 41 OF 1963

[3rd December, 1963]

An Act to provide for the establishment of a Committee for ensuring the quality of textiles and textile machinery, and for matters connected therewith.

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

1. (1) This Act may be called the Textiles Committee Act, 1963. Short title, extent and commencement.

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

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

2. In this Act, unless there is anything repugnant in the subject Definitions, or context,

(a) "Chairman" means the Chairman of the Committee;

(b) "Committee" means the Committee established under section 3;

(c) "Fund" means the Textiles Fund referred to in section 7;

(d) "member" means a member of the Committee and includes the Chairman and the Vice-Chairman;

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

(f) "textile machinery" means the equipment employed directly or indirectly for the processing of textile fibre into yarn and for the manufacture of fabric therefrom by weaving or knitting and includes equipment used either wholly or partly for the finishing, folding or packing of textiles;

22-8-1964, vide Notfn. No. 359 S.O. 2913, dt. 22-8-1964,

Gray. of India, Ex., Pt. II, Sec. 3 vii, p. 741.

(g) "textiles" means any fabric or cloth or yarn made wholly or in part of cotton, or wool or silk or artificial silk or other fibre;

(h) "Vice-Chairman" means the Vice-Chairman of the Committee.

Establishment of Textiles Committee.

3. (1) The Central Government shall, by notification in the Official Gazette, establish with effect from such date as may be specified in the notification, a Committee to be known as the Textiles Committee, which shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property and to contract and may, by that name, sue or be sued.

(2) The Head Office of the Committee shall be in Bombay.

(3) The Committee shall consist of—

(a) a Chairman to be appointed by the Central Government;

(b) a Vice-Chairman who shall be the Textile Commissioner, *ex officio*;

(c) a Joint Secretary to the Government of India to be appointed by the Central Government, *ex officio*;

(d) such other members as the Central Government may think fit to appoint who, in the opinion of that Government, have special knowledge or practical experience in matters relating to the textile industry and trade and the manufacture of textile machinery.

Functions of the committee.

4. (1) Subject to the provisions of this Act, the functions of the Committee shall generally be to ensure by such measures, as it thinks fit, standard qualities of textiles both for internal marketing and export purposes and the manufacture and use of standard type of textile machinery.

(2) Without prejudice to the generality of the provisions of subsection (1), the Committee may—

(a) undertake, assist and encourage, scientific, technological and economic research in textile industry and textile machinery;

(b) promote export of textiles and textile machinery and carry on propaganda for that purpose;

(c) establish, adopt or recognise standard specifications for textiles for the purposes of export and for internal consumption and affix suitable marks on such standardised varieties of textiles;

* 22-8-1964; vide Notfn. No. S.O. 2914, dt 22-8-1964
Ex
Govt. of India, Pt. II, Sec. 3 (iv) p. b. 741

Not Corrected: See India Code

[or 1963]

Textiles Committee

361

(d) specify the type of quality control or inspection which will be applied to textiles or textile machinery;

(e) provide for the inspection and examination of—

(i) textiles;

(ii) textile machinery at any stage of manufacture and also while it is in use at mill-heads;

(f) establish laboratories and test houses for the testing of textiles;

(g) provide for testing textiles and textile machinery in laboratories and test houses other than those established under clause (f);

(h) collect statistics for any of the above mentioned purposes from—

(i) manufacturers of, and dealers in textiles;

(ii) manufacturers of textile machinery; and

(iii) such other persons as may be prescribed;

(i) advise on all matters relating to the development of textile industry and the production of textile machinery;

(j) provide for such other matters as may be prescribed.

(3) In the discharge of its functions, the Committee shall be bound by such directions as the Central Government may, for reasons to be stated in writing, give to it from time to time.

5. The Committee may exercise all such powers as may be necessary or expedient for the purpose of carrying out its functions under this Act. *Powers of the Committee.*

6. For the purpose of enabling the Committee to discharge its functions under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Committee in each financial year such sums of money as that Government considers necessary by way of grant, loan or otherwise. *Grants by Central Government to the Committee.*

7. (1) The Committee shall have a Fund to be called the Textiles Fund and there shall be credited thereto— *Constitution of Fund.*

(a) all moneys transferred to it under clause (a) of sub-section (2) of section 24;

(b) all moneys paid by the Central Government under section 6;

(c) all fees and other charges levied under this Act;

(d) all moneys received by the Committee by way of grant, gift, donation, contribution, transfer or otherwise.

(2) The moneys in the Fund shall be applied for—

(a) meeting the pay and allowances of the officers and other employees of the Committee and other administrative expenses of the Committee;

(b) carrying out the purposes of this Act.

(3) All moneys in the Fund shall be deposited in the State Bank of India or be invested in such securities as may be approved by the Central Government.

**Standing
or *ad hoc*
Committees.**

8. (1) The Committee may constitute Standing Committees or *ad hoc* Committees for exercising any power or discharging any duty of the Committee or for inquiring into or reporting and advising on any matter which the Committee may refer to them.

(2) A Standing Committee shall consist exclusively of members of the Committee.

(3) An *ad hoc* Committee may include persons who are not members of the Committee but their number shall not exceed one-half of its strength.

**Officers
and other
employees
of the
Committee.**

9. (1) The Central Government shall, in consultation with the Committee, appoint a person to be the Secretary of the Committee.

(2) Subject to such rules as may be made by the Central Government in this behalf, the Committee may appoint such other officers and employees as it considers necessary for the efficient performance of its functions.

(3) The methods of appointment, the conditions of service and the scales of pay of the officers and other employees of the Committee shall,—

(a) as respects the Secretary, be such as may be prescribed; and

(b) as respect the other officers and employees, be such as may be determined by regulations made by the Committee under this Act.

Not Corrected: See India Code

or 1963]

Textiles Committee

363

34 of 1944.

10. Subject to the provisions of this Act, every person employed by the Cotton Textiles Fund Committee constituted under section 5 of the Cotton Textiles Fund Ordinance, 1944, immediately before the date of establishment of the Committee shall, on and from such date, become an employee of the Committee with such designation as the Committee may determine and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions as he would have held on such date if the Committee had not been established and shall continue to do so unless and until his employment in the Committee is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Committee:

Transfer
of service
of existing
employees
to the
Committee.

Provided that the tenure, remuneration and terms and conditions of service of any such person shall not be altered to his disadvantage without the previous approval of the Central Government.

11. (1) The Committee may, on application made to it or otherwise, direct an officer specially authorised in that behalf to examine the quality of textiles or the suitability of textile machinery for use at the time of manufacture or while in use in a textile mill and submit a report to the Committee.

(2) Subject to any rules made under this Act, such an officer shall have power to—

(a) inspect any operation carried on in connection with the manufacture of textiles or textile machinery in relation to which construction particulars, marks or inspection standards have been specified;

(b) take samples of any article or of any material or substance used in any article or process in relation to which construction particulars, marks or inspection standards have been specified;

(c) exercise such other powers as may be prescribed.

(3) On receipt of the report referred to in sub-section (1), the Committee may tender such advice, as it may deem fit, to the manufacturer of textiles, the manufacturer of textile machinery and the applicant.

Levy of fees for inspection and examination.

12. (1) The Committee may levy such fees as may be prescribed—
 (a) for inspection and examination of textiles,
 (b) for inspection and examination of textile machinery,
 (c) for any other service which the Committee may render to the manufacturers of textiles and textile machinery:

Provided that the Central Government may, by notification in the Official Gazette exempt from the payment of fees, generally or in any particular case.

(2) Any sum payable to the Committee under sub-section (1) may be recovered as an arrear of land revenue.

Accounts and audit

13. (1) The Committee shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the balance-sheet, in accordance with such general directions as may be issued, and in such form as may be prescribed, by the Central Government in consultation with the Comptroller and Auditor-General of India.

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

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

(4) The accounts of the Committee as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

Delegation of Powers and duties.

14. The Committee may, by general or special order in writing, direct that all or any of the powers or duties which may be exercised or discharged by it shall, in such circumstances and under such conditions, if any, as may be specified in its order, be exercised or discharged also by any officer or employee of the Committee specified in this behalf in the order.

15. No act or proceeding of the Committee shall be invalidated merely by reason of—

Acts or
proceedings
of Com-
mittee not
to be in-
valedicated.

(a) any vacancy in, or any defect in the constitution of, the Committee; or

(b) any defect in the appointment of a person acting as a member of the Committee; or

(c) any irregularity in the procedure of the Committee not affecting the merits of the case.

16. All officers and employees of the Committee shall, while acting or purporting to act in pursuance of the provisions of this Act or of any rule or regulation made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Officers
and em-
ployees of
the Com-
mittee to
be public
servants.

45 of 1860.

17. (1) Where the Committee has established, adopted or recognised standard specifications for textiles either for internal consumption or for the purposes of export or has established, adopted or recognised standard type of textile machinery and on the recommendation made to it in this behalf, the Central Government is of opinion that any textiles or textile machinery which do not conform to the standards laid by the Committee in respect thereof, should not be exported or sold for internal consumption, the Central Government may, by order published in the Official Gazette, prohibit such export or sale.

Power to
prohibit
exports and
internal
marketing
of textiles
and textile
machinery.

(2) If any person contravenes any order issued under sub-section (1) prohibiting—

(a) the export of any textiles or textile machinery, or

(b) the sale of any textiles or textile machinery for internal consumption;

he shall, on conviction, be punishable,—

(i) for the first offence with imprisonment for a term which may extend to one year or with fine or with both;

(ii) for the second or a subsequent offence with imprisonment for a term which may extend to one year and also with fine and in the absence of special and adequate reasons to be mentioned in the judgment of the court, such imprisonment shall not be less than three months.

(3) Any court trying the contravention of an order prohibiting the marketing of textiles or textile machinery under sub-section (1) may, without prejudice to the provisions of clause (b) of sub-section (2), direct that the textiles or textile machinery in respect of which the court is satisfied that such contravention has been committed, shall be forfeited to the Central Government.

**Offences
by
companies.**

18. (1) If the person committing any offence under this Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to such punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the Company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) "company" means a 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.

**Procedure
for
prosecution.**

19. No prosecution for any offence punishable under this Act shall be instituted except by or with the consent of the Central Government.

**Jurisdiction
of courts.**

20. No court inferior to that of a Presidency Magistrate or a Magistrate of the first class, shall try any offence punishable under this Act.

**Protection
of action
taken
under
the
Act.**

21. No suit, prosecution or other legal proceeding shall lie against the Committee or any member, officer or employee of the Committee for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or regulation made thereunder.

Not Corrected: See India Code

or 1963]

Textiles Committee

367

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

Power to
make rules

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

(a) the number of members and the composition of the Committee and the manner in which the members shall be chosen;

(b) the term of office of and the manner of filling casual vacancies among the members of the Committee;

(c) the allowances, if any, payable to the members of the Committee;

(d) the disqualification for membership of the Committee;

(e) the scale of fees that may be levied for inspection and examination under section 12;

(f) the form in which the Committee shall prepare its annual statement of accounts and balance-sheet;

(g) the method of appointment, the conditions of service and the scale of pay of the Secretary of the Committee;

(h) the collection of any information or statistics in respect of textile industry and trade and the manufacture of textile machinery;

(i) the mode of inspection by the Committee and the manner in which samples may be taken by it.

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

23. (1) The Committee may, with the previous sanction of the Central Government, by notification in the Official Gazette, make regulations, not inconsistent with this Act and the rules made thereunder to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

Power to
make regu-
lations

~~Not Corrected. See India Code~~

368

Textiles Committee

[Act 41 of 1963]

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

- (a) the meeting of the Committee, Standing Committees and *ad hoc* Committees, the quorum for such meetings and the conduct of business thereat;
- (b) the allowances payable to the members of the Standing Committees or the *ad hoc* Committees;
- (c) the methods of appointment, the conditions of service and the scales of pay of the officers (other than the Secretary) and other employees of the Committee;
- (d) the duties and conduct of officers and other employees of the Committee; and
- (e) any other matter in respect of which the Committee is empowered or required to make regulations under this Act.

(3) The Central Government may, by notification in the Official Gazette, amend, vary or rescind any regulation which it has sanctioned; and thereupon the regulation shall have effect accordingly, but without prejudice to the exercise of the powers of the Committee under sub-section (1).

Repeal and saving.

24. (1) With effect from the date on which the Committee is established under section 3, the Cotton Textiles Fund Ordinance, 1944 shall stand repealed.

34 of 1944.

(2) Notwithstanding the repeal of the said Ordinance,—

(a) all moneys at the credit of the Cotton Textiles Fund established under the repealed Ordinance immediately before the said date shall with effect from the said date stand transferred to and form part of the Textiles Fund referred to in section 7;

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

Rep. by Act 56 of 1974, s.2 + sch I

THE DRUGS AND MAGIC REMEDIES (OBJECTIONABLE ADVERTISEMENTS) AMENDMENT ACT, 1963

No. 42 OF 1963

[7th December, 1963]

An Act to amend the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954.

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

1. This Act may be called the Drugs and Magic Remedies Short title. (Objectionable Advertisements) Amendment Act, 1963.

2. In section 2 of the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 (hereinafter referred to as the principal section 2. Act),—

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

(cc) "registered medical practitioner" means any person,—

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

(ii) who is entitled to be registered as a medical practitioner under any law for the time being in force in any State to which this Act extends relating to the registration of medical practitioners;

(ii) clause (e) shall be omitted.

7 of 1916.

102 of 1956.

Amendment of section 3. 3. In section 3 of the principal Act, for clause (d), the following clause shall be substituted, namely:—

“(d) the diagnosis, cure, mitigation, treatment or prevention of any disease, disorder or condition specified in the Schedule, or any other disease, disorder or condition (by whatsoever name called) which may be specified in the rules made under this Act:

Provided that no such rule shall be made except—

(i) in respect of any disease, disorder or condition which requires timely treatment in consultation with a registered medical practitioner or for which there are normally no accepted remedies, and

(ii) after consultation with the Drugs Technical Advisory Board constituted under the Drugs and Cosmetics Act, 1940 and, if the Central Government considers necessary, with ^{23 of 1940.} such other persons having special knowledge or practical experience in respect of Ayurvedic or Unani systems of medicines as that Government deems fit.”.

Amendment of section 7. 4. In section 7 of the principal Act, after the words “any of the provisions of this Act”, the words “or the rules made thereunder” shall be inserted.

Substitution of new section for section 8. 5. For section 8 of the principal Act, the following section shall be substituted, namely:—

“8. (1) Subject to the provisions of any rules made in this behalf, any Gazetted Officer authorised by the State Government may, within the local limits of the area for which he is so authorised,—

(a) enter and search at all reasonable times, with such assistants, if any, as he considers necessary, any place in which he has reason to believe that an offence under this Act has been or is being committed;

(b) seize any advertisement which he has reason to believe contravenes any of the provisions of this Act:

Provided that the power of seizure under this clause may be exercised in respect of any document, article or thing which contains any such advertisement, including the contents, if any, of such document, article or thing, if the advertisement cannot be separated by reason of its being embossed.

Powers of entry, search, etc.

sed or otherwise, from such document, article or thing without affecting the integrity, utility or saleable value thereof;

(c) examine any record, register, document or any other material object found in any place mentioned in clause (a) and seize the same if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.

5 of 1898.

(2) The provisions of the Code of Criminal Procedure, 1898 shall, so far as may be, apply to any search or seizure under this Act as they apply to any search or seizure made under the authority of a warrant issued under section 98 of the said Code.

(3) Where any person seizes anything under clause (b) or clause (c) of sub-section (1), he shall, as soon as may be, inform a Magistrate and take his orders as to the custody thereof.”

6. After section 9 of the principal Act, the following section shall be inserted, namely:

Insertion of new section 9A.

5 of 1898.

“9A. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence punishable under this Act shall be cognizable.”

Offences to be cognizable.

7. After section 10 of the principal Act, the following section shall be inserted, namely:

Insertion of new section 10A.

“10A. Where a person has been convicted by any court for contravening any provision of this Act or any rule made thereunder, the court may direct that any document (including all copies thereof), article or thing, in respect of which the contravention is made, including the contents thereof where such contents are seized under clause (b) of sub-section (1) of section 8, shall be forfeited to the Government.”

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

Substitution of new section for section 14.
Savings.

“14. Nothing in this Act shall apply to—

(a) any sign board or notice displayed by a registered medical practitioner on his premises indicating that treatment for any disease, disorder or condition specified in section 3, the Schedule or the rules made under this Act, is undertaken in those premises; or

(b) any treatise or book dealing with any of the matters specified in section 3 from a *bona fide* scientific or social standpoint; or

(c) any advertisement relating to any drug sent confidentially in the manner prescribed under section 16 only to a registered medical practitioner; or

(d) any advertisement relating to a drug printed or published by the Government; or

(e) any advertisement relating to a drug printed or published by any person with the previous sanction of the Government granted prior to the commencement of the Drugs and Magic Remedies (Objectionable Advertisements) Amendment Act, 1963:

Provided that the Government may, for reasons to be recorded in writing, withdraw the sanction after giving the person an opportunity of showing cause against such withdrawal.”.

**Amendment
of section
15.**

9. In section 15 of the principal Act,—

(i) after the words “any specified drug or class of drugs”, the words “or any specified class of advertisements relating to drugs” shall be inserted;

(ii) after the words “any such drug or class of drugs”, the words “or any such class of advertisements relating to drugs” shall be inserted.

**Amendment
of section
16.**

10. In section 16 of the principal Act,—

(a) in sub-section (2)—

(i) in clause (a), for the words “disease or condition”, the words “disease, disorder or condition” shall be substituted;

(ii) in clause (b), the words, brackets and figure “sub-section (1) of” shall be omitted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Every rule 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 in which it is so laid or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.

11. After section 16 of the principal Act, the following Schedule shall be added, namely:—

Insertion
of a new
Schedule.

“THE SCHEDULE

[See sections 3(d) and 14]

S. No. Name of the disease, disorder or condition

1. Appendicitis
2. Arteriosclerosis
3. Blindness
4. Blood poisoning
5. Bright's disease
6. Cancer
7. Cataract
8. Deafness
9. Diabetes
10. Diseases and disorders of the brain
11. Diseases and disorders of the optical system
12. Diseases and disorders of the uterus
13. Disorders of menstrual flow
14. Disorders of the nervous system
15. Disorders of the prostatic gland
16. Dropsy
17. Epilepsy
18. Female diseases (in general)
19. Fevers (in general)
20. Fits
21. Form and structure of the female bust

374 *Drugs and Magic Remedies (Objectionable Advertisements) Amendment* [ACT 42 OF 1963]

S. No. Name of the disease, disorder or condition

- 22. Gall stones, kidney stones and bladder stones
- 23. Gangrene
- 24. Glaucoma
- 25. Goitre
- 26. Heart diseases
- 27. High or low blood pressure
- 28. Hydrocele
- 29. Hysteria
- 30. Infantile paralysis
- 31. Insanity
- 32. Leprosy
- 33. Leucoderma
- 34. Lockjaw
- 35. Locomotor ataxia
- 36. Lupus
- 37. Nervous debility
- 38. Obesity
- 39. Paralysis
- 40. Plague
- 41. Pleurisy
- 42. Pneumonia
- 43. Rheumatism
- 44. Ruptures
- 45. Sexual impotence
- 46. Smallpox
- 47. Stature of persons
- 48. Sterility in women
- 49. Trachoma
- 50. Tuberculosis
- 51. Tumours
- 52. Typhoid fever
- 53. Ulcers of the gastro-intestinal tract
- 54. Venereal diseases, including syphilis, gonorrhoea, soft chancre, venereal granuloma and lympho granuloma.”

Rep. by Act 56 of 1974, s. 2 & Sch I

THE INCOME-TAX (AMENDMENT) ACT, 1963

No. 43 OF 1963

[9th December, 1963]

An Act further to amend the Income-tax Act, 1961.

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

1. (1) This Act may be called the Income-tax (Amendment) Act, 1963. Short title and commencement.

(2) It shall be deemed to have come into force on the 1st day of April, 1963.

43 of 1961. 2. In section 33 of the Income-tax Act, 1961, in sub-section (1)— Amendment of section 33.

(a) in clause (i), the word “and” where it occurs last shall be omitted;

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

“(ii) in the case of machinery or plant installed before the 1st day of April, 1961, twenty-five per cent. of the actual cost of the machinery or plant to the assessee; and

(iii) in the case of machinery or plant installed after the 31st day of March, 1961,—

(a) where the machinery or plant is installed after the 31st day of March, 1963 and before the 1st day of April, 1966, for the purposes of business of mining coal, thirty-five per cent. of the actual cost of the machinery or plant to the assessee, and

(b) in any other case, twenty per cent. of the actual cost of the machinery or plant to the assessee.”.

THE APPROPRIATION (No. 5) ACT, 1963

No. 44 OF 1963

[11th December, 1963]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 1963-64.

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

Short title

1. This Act may be called the Appropriation (No. 5) Act, 1963.

Issue of Rs.
11,33,14,000
out of the
Consolidat-
ed Fund of
India for
the year
1963-64.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of eleven crores, thirty-three lakhs and fourteen thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1963-64, in respect of the services specified in column 2 of the Schedule.

Appro-
priation.

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

THE SCHEDULE

(See sections 2 and 3)

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
I	Ministry of Commerce and Industry	8,78,000	..	8,78,000
15	Education	1,000	..	1,000
37	Planning Commission	3,22,000	..	3,22,000
38	Grants-in-aid to States	2,25,00,000	..	2,25,00,000
53	Administration of Justice	21,000	..	21,000
56	Statistics	16,00,000	3,000	16,03,000
104	Expenditure on Displaced Persons	3,00,00,000	40,000	3,00,40,000
113	Capital Outlay of the Ministry of Commerce and Industry	2,00,00,000	..	2,00,00,000
132	Capital Outlay of the Ministry of Information and Broadcasting	..	3,12,000	3,12,000
136	Capital Outlay of the Ministry of Mines and Fuel	3,67,00,000	..	3,67,00,000
146	Other Capital Outlay of the Ministry of Works, Housing and Rehabilitation	9,25,000	12,000	9,37,000
TOTAL		11,29,47,000	3,67,000	11,33,14,000

Not Corrected: See India Code, Vol VIII-B, Pt III, p - 181

THE ADMINISTRATORS-GENERAL ACT, 1963

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II

THE OFFICE OF THE ADMINISTRATOR-GENERAL

3. Appointment of Administrator-General.
4. Appointment and powers of Deputy Administrator-General.
5. Incorporation.

CHAPTER III

RIGHTS, POWERS AND DUTIES OF THE ADMINISTRATOR-GENERAL

- (a) *Grant of letters of administration and probate*
6. Jurisdiction of High Court for the whole State.
7. Administrator-General entitled to letters of administration, unless granted to next-of-kin.
8. Administrator-General entitled to letters of administration in preference to creditors, certain legatees or friends.
9. Right of Administrator-General to apply for administration of estates.
10. Power of Administrator-General to collect and hold assets where immediate action is required.
11. Grant of probate or letters of administration to person appearing in the course of proceedings taken by Administrator-General.

~~Not Corrected: See India Code~~

[Act 45 of 1963]

Administrators-General

379

SECTIONS

12. Grant of administration to Administrator-General in certain cases.
13. Administrator-General not precluded from applying for letters within one month after death.

(b) *Revocation of grants*

14. Recall of Administrator-General's administration and grant of probate, etc., to executor or next-of-kin.
15. Cost of obtaining administration, etc., may, on revocation, be ordered to be paid to Administrator-General out of estate.
16. After revocation, letters granted to Administrator-General to be deemed, as to him, to have been voidable only.
17. Payments made by Administrator-General prior to revocation.

(c) *General*

18. Administrator-General's petition for grant of letters of administration.
19. Name in which probate or letters to be granted.
20. Effect of probate or letters granted to Administrator-General.
21. Effect of grant by the High Court of Jammu and Kashmir.
22. Transfer by private executor or administrator of interest under probate or letters.
23. Distribution of assets.
24. Appointment of Official Trustee as trustee of assets after completion of administration.
25. Power of High Court to give directions regarding administration of estate.
26. No security to be required from Administrator-General.
27. Manner in which petition to be verified by Administrator-General.
28. Entry of Administrator-General not to constitute notice of a trust.

CHAPTER IV**GRANT OF CERTIFICATE****SECTIONS**

29. In what cases Administrator-General may grant certificate.
30. Grant of certificate to creditors and power to take charge of certain estates.
31. Administrator-General not bound to grant certificate unless satisfied of claimant's title, etc.
32. Effect of certificate.
33. Revocation of certificate.
34. Surrender of revoked certificate.
35. Payment to holder of certificate before it is revoked.
36. Administrator-General not bound to take out administration on account of assets for which he has granted certificate.
37. Transfer of certain assets to executor or administrator in country of domicile for distribution.

CHAPTER V**LIABILITY**

38. Liability of Government.
39. Creditor's suit against Administrator-General.
40. Notice of suit not required in certain cases.

CHAPTER VI**FEES**

41. Fees.
42. Disposal of fees.

CHAPTER VII**AUDIT OF THE ADMINISTRATOR-GENERAL'S ACCOUNTS**

43. Audit.
44. Auditors to examine accounts and report to Government.
45. Power of auditors to summon and examine witnesses, and to call for documents.
46. Costs of audit, etc.

CHAPTER VIII

MISCELLANEOUS

SECTIONS

47. General powers of administration.
48. Power to summon and examine witnesses.
49. Power of person beneficially interested to inspect Administrator-General's account, etc., and take copies.
50. False evidence.
51. Assets unclaimed for twelve years to be transferred to Government.
52. Mode of proceeding by claimant to recover principal money so transferred.
53. Succession Act or Companies Act not to affect Administrator-General.
54. Savings of provisions of Police Acts for presidency-towns.
55. Order of court to be equivalent to decree.
56. Provision for administration by Consular Officer in case of death in certain circumstances of foreign subject.
57. Letters of administration not necessary in respect of small estates administered by Administrator-General in accordance with certain Acts.
58. Powers to grant Administrator-General letters limited for purpose of dealing with assets in accordance with the Army and Air Force (Disposal of Private Property) Act, 1950, or the Navy Act, 1957.
59. Act not to affect Army and Air Force (Disposal of Private Property) Act, 1950, or the Navy Act, 1957.
60. Saving of provisions of Indian Registration Act, 1908.
61. Power of Central Government to make rules.
62. Power of State Government to make rules.
63. Laying of rules made by Central Government before Parliament.
64. Repeal and savings.

Not Corrected: See India Code, Vol VIII-B, Pt III, p-181

THE ADMINISTRATORS-GENERAL ACT, 1963

No. 45 OF 1963

[11th December, 1963]

An Act to consolidate and amend the law relating to the office and duties of Administrator-General.

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

CHAPTER I

PRELIMINARY

Short title, 1. (1) This Act may be called the Administrators-General Act, extent and commencement. 1963.

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

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

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

(a) "assets" means all the property, movable and immovable, of a deceased person, which is chargeable with and applicable to the payment of his debts and legacies, or available for distribution among his heirs and next-of-kin;

(b) "letters of administration" includes any letters of administration whether general or with a copy of the will annexed or limited in time or otherwise;

¹11st March, 1964; vide Notification No. S.O. 588, dated 11-2-1964, Gazette of India, Pt. II, Sec 3(ii), p. 806.

Not Corrected: See India Code

[PACTA 45 OF 1963]

Administrators-General

383

(c) "next-of-kin" includes a widower or widow of a deceased person, or any other person who by law would be entitled to letters of administration in preference to a creditor or legatee of the deceased; and

(d) "prescribed" means prescribed by rules made under this Act.

CHAPTER II

THE OFFICE OF THE ADMINISTRATOR-GENERAL

3. (1) The State Government shall appoint an Administrator-General for the State:

Provided that nothing herein contained shall be deemed to bar the appointment of the same person as Administrator-General for two or more States.

(2) No person shall be appointed to the office of Administrator-General unless he has been for at least—

- (a) seven years an advocate; or
- (b) seven years an attorney of a High Court; or
- (c) ten years a member of the judicial service of a State; or
- (d) five years a Deputy Administrator-General.

4. (1) The State Government may appoint a Deputy or Deputies to assist the Administrator-General; and any Deputy so appointed shall, subject to the control of the State Government and the general or special orders of the Administrator-General, be competent to discharge any of the duties and to exercise any of the powers of the Administrator-General, and when discharging such duties or exercising such powers shall have the same privileges and be subject to the same liabilities as the Administrator-General.

(2) No person shall be appointed as a Deputy under this section unless he has been for at least three years—

- (a) an advocate; or
- (b) an attorney of a High Court; or
- (c) a member of the judicial service of a State.

Appoint-
ment of
Adminis-
trator-
General.

Appoint-
ment and
powers of
Deputy
Adminis-
trator-
General.

Incorporation.

5. The Administrator-General shall be a corporation sole by the name of the Administrator-General of the State for which he is appointed, and, as such Administrator-General, shall have perpetual succession and an official seal, and may sue and be sued in his corporate name.

CHAPTER III

RIGHTS, POWERS AND DUTIES OF THE ADMINISTRATOR-GENERAL

(a) Grant of letters of administration and probate

Jurisdiction of High Court for the whole State.

6. So far as regards the Administrator-General of any State, the High Court shall be deemed to be a Court of competent jurisdiction for the purpose of granting probate or letters of administration under any law for the time being in force, wheresoever within the State the estate to be administered is situate:

Provided that nothing in this section shall be construed as affecting the jurisdiction of any district court.

Administrator-General entitled to letters of administration, unless granted to next-of-kin.

7. Any letters of administration granted by the High Court shall be granted to the Administrator-General of the State unless they are granted to the next-of-kin of the deceased.

Administrator-General, entitled to letters of administration in preference to creditors, certain legatees or friends.

8. The Administrator-General of the State shall be deemed by all the courts in the State to have a right to letters of administration other than letters *pendente lite* in preference to that of—

(a) a creditor; or

(b) a legatee, other than a universal legatee or a residuary legatee or the representative of a residuary legatee; or

(c) a friend of the deceased.

Right of Administrator-General to apply for administration of estates.

9. (1) If—

(a) any person has died leaving within any State assets exceeding rupees five thousand in value, and

(b) (whether the obtaining of probate of his will or letters of administration to his estate is or is not obligatory), no person to whom any court would have jurisdiction to commit administration of such assets has, within one month after his death, applied in such State for such probate, or letters of administration, and

Not Corrected: See India Code

of 1963]

Administrators-General

385

39 of 1925

(c) (in cases where the obtaining of such probate or letters of administration is not obligatory under the provisions of the Indian Succession Act, 1925), no person has taken other proceedings for the protection of the estate,

the Administrator-General of the State in which such assets are, may, subject to any rules made by the State Government, within a reasonable time after he has had notice of the death of such person, and of his having left such assets, take such proceedings as may be necessary to obtain from the High Court letters of administration of the estate of such person.

(2) The Administrator-General shall not take proceedings under this section unless he is satisfied, that there is apprehension of misappropriation, deterioration or waste of such assets if such proceedings are not taken by him or that such proceedings are otherwise necessary for the protection of the assets.

10. (1) Whenever any person has died leaving assets within any State exceeding rupees five thousand in value, and the High Court for that State is satisfied that there is imminent danger of misappropriation, deterioration or waste of such assets, requiring immediate action, the High Court may, upon the application of the Administrator-General or of any person interested in such assets or in the due administration thereof, forthwith direct the Administrator-General—

Power of
Administrator-
General to
collect
and hold
assets
where
immediate
action is
required.

(a) to collect and take possession of such assets, and

(b) to hold, deposit, realise, sell or invest the same according to the directions of the High Court, and, in default of any such directions, according to the provisions of this Act so far as the same are applicable to such assets.

(2) Any order of the High Court under sub-section (1) shall entitle the Administrator-General—

(a) to maintain any suit or proceeding for the recovery of such assets;

(b) if he thinks fit, to apply for letters of administration of the estate of such deceased person;

(c) to retain out of the assets of the estate any fees chargeable under rules made under this Act; and

(d) to reimburse himself for all payments made by him in respect of such assets which a private administrator might lawfully have made.

Grant of probate or letters of administration to person appearing in the course of proceedings taken by Administrator-General.

11. If, in the course of proceedings to obtain letters of administration under the provisions of section 9 or section 10,

- (a) any person appears and establishes his claim—
 - (i) to probate of the will of the deceased; or
 - (ii) to letters of administration as next-of-kin of the deceased, and gives such security as may be required of him by law; or
 - (b) any person satisfies the High Court that he has taken and is prosecuting with due diligence other proceedings for the protection of the estate, the case being one in which the obtaining of such probate or letters of administration is not obligatory under the provisions of the Indian Succession Act, 1925; or
 - (c) the High Court is satisfied that there is no apprehension of misappropriation, deterioration, or waste of the assets and that the grant of letters of administration in such proceedings is not otherwise necessary for the protection of the assets;
- the High Court shall—
- (1) in the case mentioned in clause (a), grant probate of the will or letters of administration accordingly;
 - (2) in the case mentioned in clause (b) or clause (c), drop the proceedings; and
 - (3) in all the cases award to the Administrator-General the costs of any proceedings taken by him under those sections to be paid out of the estate as part of the testamentary or intestate expenses thereof.

Grant of administration to Administrator-General in certain cases.

12. If, in the course of proceedings to obtain letters of administration under the provisions of section 9 or section 10, and within such period as to the High Court seems reasonable, no person appears and establishes his claim to probate of a will, or to a grant of letters of administration as next-of-kin of the deceased, or satisfies the High Court that he has taken and is prosecuting with due diligence other proceedings for the protection of the estate, the case being one in which the obtaining of such probate or letters of administration is not obligatory under the provisions of the Indian Succession Act, 1925, and the High Court is satisfied that there is apprehension of misappropriation, deterioration, or waste of the assets or that the grant of letters of administration in such proceedings is otherwise necessary for the protection of the assets;

or if a person who has established his claim to a grant of letters of administration as next-of-kin of the deceased fails to give such security as may be required of him by law;

39 of 1925.

Not Corrected: See India Code

OF 1963]

Administrators-General

387

the High Court may grant letters of administration to the Administrator-General.

13. Nothing in this Act shall be deemed to preclude the Administrator-General from applying to the High Court for letters of administration in any case within the period of one month from the death of the deceased.

Administrator-General
not pre-
cluded
from
applying
for letters
within one
month
after
death.

(b) Revocation of grants

14. If an executor or next-of-kin of the deceased, who has not been personally served with a citation or who has not had notice thereof in time to appear pursuant thereto, establishes to the satisfaction of the High Court a claim to probate of will or to letters of administration in preference to the Administrator-General, any letters of administration granted in accordance with the provisions of this Act to the Administrator-General—

Recall of
Adminis-
trator-
General's
adminis-
tration and
grant of
probate,
etc., to
executor
or next-of-
kin.

(a) shall be revoked, if a will of the deceased is proved in the State;

(b) may be revoked, in other cases, if an application for that purpose is made within six months after the grant to the Administrator-General and the High Court is satisfied that there has been no unreasonable delay in making the application, or in transmitting the authority under which the application is made;

and probate or letters of administration may be granted to such executor or next-of-kin as the case may be.

15. If any letters of administration granted to the Administrator-General in accordance with the provisions of this Act are revoked, the High Court may order the costs of obtaining such letters of administration, and the whole or any part of any fees which would otherwise have been payable under this Act, together with the costs of the Administrator-General in any proceedings taken to obtain such revocation, to be paid to or retained by the Administrator-General out of the estate:

Cost of
obtaining
adminis-
tration, etc.
may, on re-
vocation,
be ordered
to be paid
to Adminis-
trator
General
out of
estate.

Provided that nothing in this section shall affect the provisions of clauses (c) and (d) of sub-section (2) of section 10.

16. If any letters of administration granted to the Administrator-General in accordance with the provisions of this Act are revoked, General in accordance with the provisions of this Act are revoked, the same shall, so far as regards the Administrator-General and all

After re-
vocation
letters
granted to

Administrator-General to be deemed, as to him, to have been voidable only.

Payments made by Administrator-General prior to revocation.

Administrator's petition for grant of letters of administration.

Name in which probate or letters to be granted.

Effect of probate or letters granted to Administrator-General.

persons acting under his authority in pursuance thereof, be deemed to have been only voidable, except as to any act done by any such Administrator-General or other person as aforesaid, after notice of a will or of any other fact which would render such letters void:

Provided that no notice of a will or of any other fact which would render any such letters void shall affect the Administrator-General or any person acting under his authority in pursuance of such letters unless, within the period of one month from the time of giving such notice, proceedings are commenced to prove the will, or to cause the letters to be revoked, and such proceedings are prosecuted without unreasonable delay.

17. If any letters of administration granted to the Administrator-General in accordance with the provisions of this Act are revoked, upon the grant of probate of a will, or upon the grant of letters of administration with a copy of the will annexed, all payments made or acts done by or under the authority of the Administrator-General in pursuance of such letters of administration, prior to the revocation, which would have been valid under any letters of administration lawfully granted to him with a copy of such will annexed, shall be deemed valid notwithstanding such revocation.

(c) General

18. Whenever any Administrator-General applies for letters of administration in accordance with the provisions of this Act, it shall be sufficient if the petition required to be presented for the grant of such letters states,—

- (i) the time and place of the death of the deceased to the best of the knowledge and belief of the petitioner;
- (ii) the names and addresses of the surviving next-of-kin of the deceased, if known;
- (iii) the particulars and value of the assets likely to come into the hands of the petitioner;
- (iv) particulars of the liabilities of the estate, if known.

19. All probates or letters of administration granted to any Administrator-General shall be granted to him by that name.

20. (1) Probate or letters of administration granted by the High Court to the Administrator-General of any State shall have effect over all the assets of the deceased throughout the territories to which this Act extends and shall be conclusive as to the representative title against all debtors of the deceased and all persons holding such assets, and shall afford full indemnity to all debtors paying

their debts and all persons delivering up such assets to such Administrator-General.

(2) Whenever a grant of probate or letters of administration is made by a High Court to the Administrator-General, the High Court shall send to the High Courts for the other States a certificate that such grant has been made, and such certificate shall be filed by the High Court receiving the same.

21. Probate or letters of administration granted by the High Court for the State of Jammu and Kashmir to the Administrator-General of that State shall have effect over all the assets of the deceased throughout all the States to the High Courts of which a certificate is sent by the High Court for the State of Jammu and Kashmir that such grant has been made, and shall be conclusive as to the representative title against all debtors of the deceased and all persons holding such assets, and shall afford full indemnity to all debtors paying their debts and all persons delivering up such assets to such Administrator-General.

Effect of
grant by
the High
Court of
Jammu
and
Kashmir.

22. (1) Any private executor or administrator may, with the previous consent of the Administrator-General of the State in which any of the assets of the estate, in respect of which such executor or administrator has obtained probate or letters of administration, are situate, by an instrument in writing under his hand notified in the Official Gazette, transfer the assets of the estate, vested in him by virtue of such probate or letters to the Administrator-General by that name or any other sufficient description.

Transfer
by private
executor
or admini-
nistrator of
interest
under
probate
or letters.

(2) As from the date of such transfer, the transferor shall be exempt from all liability as such executor or administrator, as the case may be, except in respect of acts done before the date of such transfer, and the Administrator-General shall have the rights which he would have had, and be subject to the liabilities to which he would have been subject, if the probate or letters of administration, as the case may be, had been granted to him by that name at the date of such transfer.

23. (1) When the Administrator-General has given the prescribed notice to creditors and others to send in to him their claims against the estate of the deceased, he shall, at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets or any part thereof in discharge of such lawful claims as he has notice of.

Distribu-
tion of
assets.

(2) The Administrator-General shall not be liable for the assets so distributed to any person of whose claims he had not notice at the time of such distribution.

(3) No notice of any claim which has been sent in and has been rejected or disallowed in part by the Administrator-General shall affect him, unless proceedings to enforce such claim are commenced within one month after notice of the rejection or disallowance of such claim has been given in the prescribed manner and unless such proceedings are prosecuted without unreasonable delay.

(4) Nothing in this section shall prejudice the right of any creditor or other claimant to follow the assets or any part thereof in the hands of the persons who may have received the same respectively.

(5) In computing the period of limitation for any suit, appeal or application under the provisions of any law for the time being in force, the period between the date of submission of the claim of a creditor or other claimant to the Administrator-General and the date of the final decision of the Administrator-General on such claim shall be excluded.

Appointment of Official Trustee as trustee of assets after completion of administration.

24. (1) When the Administrator-General has, so far as may be, discharged all the liabilities of an estate administered by him, he shall notify the fact in the Official Gazette, and he may, by an instrument in writing, with the consent of the Official Trustee and subject to any rules made by the State Government, appoint the Official Trustee to be the trustee of any assets then remaining in his hands.

(2) Upon such appointment, such assets shall vest in the Official Trustee as if he had been appointed trustee in accordance with the provisions of the Official Trustees Act, 1913, and shall be held by him upon the same trusts as the same were held immediately before such appointment.

Power of High Court to give directions regarding administration of estate.

25. The High Court may, on application made to it by the Administrator-General or any person interested in the assets or in the due administration thereof, give to the Administrator-General of the State any general or special directions as to any estate in his charge or in regard to the administration of any such estate.

No security to be required from Administrator-General.

26. No Administrator-General shall be required by any Court to enter into any administration bond, or to give other security to the Court, on the grant of any letters of administration to him by that name.

27. No Administrator-General shall be required to verify, otherwise than by his signature, any petition presented by him under the provisions of this Act, and, if the facts stated in any such petition are not within his own personal knowledge, the petition may be subscribed and verified by any person competent to make verification.

Manner
in which
petition to
be verified
by Adminis-
trator-
General.

28. The entry of the Administrator-General by that name in the books of a company shall not constitute notice of a trust, and a company shall not be entitled to object to entering the name of the Administrator-General on its register by reason only that the Administrator-General is a corporation, and in dealing with assets the fact that the person dealt with is the Administrator-General shall not of itself constitute notice of a trust.

Entry of
Adminis-
trator-
General
not to con-
stitute
notice of
a trust.

CHAPTER IV

GRANT OF CERTIFICATE

19 of 1925.

29. (1) Whenever any person has died leaving assets within any State and the Administrator-General of such State is satisfied that such assets, excluding any sum of money deposited in a Government Savings Bank or in any provident fund to which the provisions of the Provident Funds Act, 1925, apply, did not at the date of death exceed in the whole five thousand rupees in value, he may grant to any person, claiming otherwise than as a creditor to be interested in such assets or in the due administration thereof, a certificate under his hand entitling the claimant to receive the assets therein mentioned left by the deceased within the State, to a value not exceeding in the whole five thousand rupees.

In what
cases
Adminis-
trator-
General
may grant
certificate.

(2) No certificate under this section shall be granted before the lapse of one month from the death unless before the lapse of the said one month the Administrator-General is requested so to do by writing under the hand of the executor or the widow or other person entitled to administer the estate of the deceased and he thinks fit to grant it.

(3) No certificate shall be granted under this section,—

19 of 1925.

- (i) where probate of the deceased's will or letters of administration of his estate has or have been granted; or
- (ii) in respect of any sum of money deposited in a Government Savings Bank or in any provident fund to which the provisions of the Provident Funds Act, 1925, apply.

Grant of certificate to creditors and power to take charge of certain estates.

30. (1) If, in cases falling within section 29, no person claiming to be interested otherwise than as a creditor in such assets or in the due administration thereof obtains, within three months of the death of the deceased, a certificate from the Administrator-General under that section, or probate of a will or letters of administration of the estate of the deceased, the Administrator-General may administer the estate without letters of administration, in the same manner as if such letters had been granted to him.

(2) If the Administrator-General neglects or refuses to administer such estate, he shall, upon the application of a creditor, grant a certificate to him in the same manner as if he were interested in such assets otherwise than as a creditor; and such certificate shall have the same effect as a certificate granted under the provisions of section 29, and shall be subject to all the provisions of this Act which are applicable to such certificate.

(3) The Administrator-General may, if he thinks fit, before granting a certificate under sub-section (2), require the creditor to give reasonable security for the due administration of the estate of the deceased.

Administrator-General not bound to grant certificate unless satisfied of claimant's title, etc.

31. The Administrator-General shall not be bound to grant any certificate under section 29 or section 30 unless he is satisfied after making such inquiry as he thinks fit of the title of the claimant and of the value of the assets left by the deceased within the State.

Effect of certificate.

32. The holder of a certificate granted in accordance with the provisions of section 29 or section 30 shall have in respect of the assets specified in such certificate the same powers and duties, and be subject to the same liabilities as he would have had or been subject to if letters of administration had been granted to him:

Provided that nothing in this section shall be deemed to require any person holding such certificate,—

(a) to file accounts or inventories of the assets of the deceased before any court or other authority; or

(b) save as provided in section 30, to give any bond for the due administration of the estate.

Revocation of certificate.

33. (1) The Administrator-General may revoke a certificate granted under the provisions of section 29 or section 30 on any of the following grounds, namely:—

(i) that the certificate was obtained by fraud or misrepresentation made to him;

(ii) that the certificate was obtained by means of an untrue allegation of a fact essential in law to justify the grant though such allegation was made in ignorance or inadvertently.

(2) No certificate shall be revoked under this section unless the holder of the certificate has been given a reasonable opportunity of showing cause why the certificate should not be so revoked.

34. (1) When a certificate is revoked in accordance with the provisions of section 33, the holder thereof shall, on the requisition of the Administrator-General, deliver it up to such Administrator-General, but shall not be entitled to the refund of any fee paid thereon.

Surrender
of revok-
ed certifi-
cate

(2) If such person wilfully and without reasonable cause omits to deliver up the certificate, he shall be punishable with imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

35. When a certificate is revoked in accordance with the provisions of section 33, all payments made in good faith under such certificate to the holder thereof before such revocation, shall, notwithstanding such revocation, be a legal discharge to the person making the payment and the holder of such certificate may retain, and reimburse himself in respect of, any payments made by him which the person to whom a certificate or probate or letters of administration may afterwards be granted might lawfully have made.

Payment
to holder
of certi-
ficate
before it is
revoked.

36. The Administrator-General shall not be bound to take out letters of administration of the estate of any deceased person on account of the assets in respect of which he grants any certificate under section 29 or section 30, but he may do so if he revokes such certificate under section 33, or ascertains that the value of the estate exceeded five thousand rupees.

Administrator-
General
not bound
to take out
adminis-
tration on
account of
assets for
which he
has grant-
ed certifi-
cate

37. Where—

(a) a person not having his domicile in any State to which this Act extends has died leaving assets in any State and in the country in which he had his domicile at the time of his death, and

Transfer
of certain
assets to
executor
or admin-
istrator in
country of
domicile
for distri-
bution.

(b) proceedings for the administration of his estate with respect to assets in any such State have been taken under section 29 or section 30, and

(c) there has been a grant of administration in the country of domicile, with respect to the assets in that country,

the holder of the certificate granted under section 29 or section 30, or the Administrator-General, as the case may be, after having given the prescribed notice for creditors and others to send in to him their claims against the estate of the deceased, and after having discharged, at the expiration of the time therein named, such lawful claims as he has notice of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of India or in the State of Jammu and Kashmir who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons.

CHAPTER V

LIABILITY

Liability of Government.

38. The Government shall be liable to make good all sums required to discharge any liability which the Administrator-General, if he were a private administrator, would be personally liable to discharge, except when the liability is one to which neither the Administrator-General nor any of his officers has in any way contributed, or which neither he nor any of his officers could, by the exercise of reasonable diligence, have averted, and in either of those cases the Administrator-General shall not, nor shall the Government, be subject to any liability.

Creditor's suit against Administrator-General.

39. (1) If any suit be brought by a creditor against any Administrator-General, such creditor shall be liable to pay the costs of the suit unless he proves that not less than one month previous to the institution of the suit he had applied in writing to the Administrator-General, stating the amount and other particulars of his claim, and had given such evidence in support thereof as, in the circumstances of the case, the Administrator-General was reasonably entitled to require.

(2) If any such suit is decreed in favour of the creditor, he shall, nevertheless, unless he is a secured creditor, be only entitled to payment of the amount decreed or ordered by the court to be paid out of the assets of the deceased equally and rateably with the other creditors.

Notice of suit not required in certain cases.

40. Nothing in section 80 of the Code of Civil Procedure, 1908. ^{5 of 1908.} shall apply to any suit against the Administrator-General in which no relief is claimed against him personally.

Not Corrected: See India Code

or 1963]

Administrators-General

395

CHAPTER VI

FEES

41. (1) There shall be charged in respect of the duties of the Fees. Administrator-General such fees, whether by way of percentage or otherwise, as may be prescribed by the State Government.

(2) The fees under this section may be at different rates for different estates or classes of estates or for different duties, and shall, so far as may be, be arranged so as to produce an amount sufficient to discharge the salaries and all other expenses incidental to the working of this Act, (including such sum as the State Government may determine to be required to insure the Government against loss under this Act).

42. (1) Any expenses which might be retained or paid out of Disposal of fees. any estate in the charge of the Administrator-General, if he were a private Administrator of such estate shall be so retained or paid and the fees described under section 41 shall be retained or paid in like manner as and in addition to such expenses.

(2) The Administrator-General shall transfer and pay to such authority in such manner and at such time as the State Government may prescribe, all fees received by him under this Act, and the same shall be carried to the account and the credit of the Government.

CHAPTER VII

AUDIT OF THE ADMINISTRATOR-GENERAL'S ACCOUNTS

43. The accounts of every Administrator-General shall be audit- Audit. ed at least once annually and at any other time if the State Govern- ment so directs, by the prescribed person and in the prescribed manner.

44. The auditors shall examine the accounts and forward to the Auditors to State Government a statement thereof in the prescribed form, together with a report thereon and a certificate signed by them show- ing—
examine accounts and report to Government.

(a) whether the accounts have been audited in the pres-cribed manner;

(b) whether, so far as can be ascertained by such audit, the accounts contain a full and true account of everything which ought to be inserted therein;

(c) whether the books which by any rules made under this Act are directed to be kept by the Administrator-General, have been duly and regularly kept; and

(d) whether the assets and securities have been duly kept and invested and deposited in the manner prescribed by this Act, or by any rules made thereunder;

or (as the case may be) that such accounts are deficient, or that the Administrator-General has failed to comply with this Act or the rules made thereunder, in such respects as may be specified in such certificate.

Power of auditors to summon and examine witnesses, and to call for documents..

45. (1) Every auditor shall have all the powers vested in a civil court under the Code of Civil Procedure, 1908, when trying a suit, 5 of 1908, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of witnesses and examining them on oath;
- (b) discovery and inspection;
- (c) compelling the production of documents; and
- (d) issuing commissions for the examination of witnesses.

(2) Any person who when summoned refuses, or, without reasonable cause, neglects to attend or to produce any document or thing or attends and refuses to be sworn, or to be examined, shall be deemed to have committed an offence within the meaning of, and punishable under, section 188 of the Indian Penal Code, and the 45 of 1860. auditor shall report every case of such refusal or neglect to the State Government.

Costs of audit, etc.

46. The costs of and incidental to such audit and examination shall be determined in accordance with rules made by the State Government, and shall be defrayed in the prescribed manner.

CHAPTER VIII

MISCELLANEOUS

General powers of administration.

47. The Administrator-General may, in addition to, and not in derogation of, any other powers of expenditure lawfully exercisable by him, incur expenditure—

(a) on such acts as may be necessary for the proper care and management of any property belonging to any estate in his charge; and

(b) with the sanction of the High Court, on such religious, charitable and other objects, and on such improvements, as may be reasonable and proper in the case of such property.

5 of 1908.

48. (1) The Administrator-General may, whenever he desires, for the purposes of this Act, to satisfy himself regarding any question of fact, exercise all the powers vested in a civil court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:—

Power to summon and examine witnesses.

- (a) summoning and enforcing the attendance of witnesses and examining them on oath;
- (b) discovery and inspection;
- (c) compelling the production of documents; and
- (d) issuing commissions for the examination of witnesses.

(2) The provisions of sub-section (2) of section 45 shall apply in relation to a person summoned by the Administrator-General under this section as they apply in relation to a person summoned under that section.

49. Any person interested in the administration of any estate which is in the charge of the Administrator-General shall, subject to such conditions and restrictions as may be prescribed, be entitled at all reasonable times to inspect the accounts relating to such estate and the reports and certificates of the auditor, and on payment of the prescribed fee, to copies thereof and extracts therefrom.

Power of person beneficially interested to inspect Administrator-General's account, etc., and take copies.

50. Whoever, during any examination authorised by this Act, makes upon oath a statement which is false and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

False evidence.

51. All assets in the charge of the Administrator-General which have been in his custody for a period of twelve years or upwards, whether before or after the commencement of this Act, without any application for payment thereof having been made and granted by him shall be transferred, in the prescribed manner, to the account and credit of the Government:

Assets unclaimed for twelve years to be transferred to Government.

Provided that this section shall not authorise the transfer of any such assets as aforesaid, if any suit or proceeding is pending in respect thereof in any court.

52. (1) If any claim is hereafter made to any part of the assets transferred to the account and credit of the Government under the provisions of this Act, or any Act hereby repealed, and if such claim is established to the satisfaction of the prescribed authority, the State Government shall pay to the claimant the amount of the principal so transferred to its account and credit or so much thereof as has been found by the said authority to be due to the claimant.

Mode of proceeding by claimant to recover principal money so transferred.

(2) If the claim is not established to the satisfaction of the prescribed authority, the claimant may, without prejudice to his right to take any other proceedings for the recovery of such assets, apply by petition to the High Court against the State Government and such Court, after taking such evidence as it thinks fit, shall make such order in regard to the payment of the whole or any part of the said principal sum as it thinks fit, and such order shall be binding on all parties to the proceedings.

(3) The High Court may further direct by whom the whole or any part of the costs of each party shall be paid.

**Succession
Act or
Companies
Act not to
affect
Administrator-
General.**

**Savings of
provisions
of Police
Acts for
presiden-
cy-towns.**

**Order of
court to be
equivalent
to decree.**

**Provision
for admin-
istration
by Consular
Officer in
case of
death in
certain cir-
cumstances
of foreign
subject.**

**Letters of
adminis-
tration not
necessary
in respect
of small
estates
administer-
ed by
Adminis-
trator-**

53. Nothing contained in the Indian Succession Act, 1925, or the Companies Act, 1956, shall be taken to supersede or affect the rights, duties and privileges of any Administrator-General.

54. Nothing contained in the Indian Succession Act, 1925, or in this Act, shall be deemed to affect, or to have affected, any law for the time being in force relating to the movable property under four hundred rupees in value of persons dying intestate within any of the presidency-towns which shall be or has been taken charge of by the police for the purpose of safe custody.

55. Any order made under this Act by any court shall have the same effect as a decree.

56. Notwithstanding anything in this Act, or in any other law for the time being in force, the Central Government may, by general or special order, direct that, where a subject of a foreign State dies in the territories to which this Act extends, and it appears that there is no one in the said territories, other than the Administrator-General, entitled to apply to a court of competent jurisdiction for letters of administration of the estate of the deceased, letters of administration shall, on the application to such court by any Consular Officer of such foreign State, be granted to such Consular Officer on such terms and conditions as the Court may, subject to any rules made in this behalf by the Central Government, think fit to impose.

57. It shall not be necessary for the Administrator-General to take out letters of administration of the estate of any deceased person which is being administered by him in accordance with the provisions of the Army and Air Force (Disposal of Private Property) Act, 1950, or the Navy Act, 1957, if the value of such estate does not, on the date when such administration is committed to him, exceed rupees two thousand, but he shall have the same power in regard to such estate

40 of 1950.

62 of 1957.

as he would have had if letters of administration had been granted to him.

General
in accord-
ance with
certain
Acts.

40 of 1950.
62 of 1957.
46 of 1950.
45 of 1950.

58. If the Administrator-General applies in accordance with the provisions of the Army and Air Force (Disposal of Private Property) Act, 1950, or the Navy Act, 1957, for letters of administration of the estate of any person subject to the Army Act, 1950, or the Air Force Act, 1950, or the Navy Act, 1957, the Court may grant to him letters of administration limited to the purpose of dealing with such estate in accordance with the provisions of the Army and Air Force (Disposal of Private Property) Act, 1950, or, as the case may be, the Navy Act, 1957.

Powers to
grant
Adminis-
trator-
General
letters
limited for
purpose of
dealing
with assets
in accord-
ance with
the Army
and Air
Force
(Disposal
of Private
Property)
Act, 1950,
or the
Navy Act,
1957.

40 of 1950.
62 of 1957.

59. Nothing in this Act shall be deemed to affect the provisions of the Army and Air Force (Disposal of Private Property) Act, 1950, or the Navy Act, 1957.

Act not to
affect
Army and
Air Force
(Disposal
of Private
Property)
Act, 1950,
or the
Navy Act,
1957.

16 of 1908

60. Nothing in this Act shall be deemed to affect the provisions of the Indian Registration Act, 1908.

Saving of
provisions
of Indian
Registra-
tion Act,
1908.

61. The Central Government may, by notification in the Official Gazette, make rules as to the terms and conditions on which letters of administration may be granted to Consular Officers under section 56.

Power of
Central
Govern-
ment to
make
rules.

62. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act, and for regulating the proceedings of the Administrator-General.

Power of
State
Govern-
ment to
make
rules.

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

(a) the accounts to be kept by the Administrator-General and the audit and inspection thereof;

- (b) the safe custody, deposit and investment of assets and securities which come into the hands of the Administrator-General;
- (c) the remittance of sums of money in the hands of the Administrator-General in cases in which such remittances are required;
- (d) subject to the provisions of this Act, the fees to be paid under this Act and the collection and accounting for any such fees;
- (e) the statements, schedules and other documents to be submitted to the State Government or to any other authority by the Administrator-General, and the publication thereof;
- (f) the realization of the cost of preparing any such statements, schedules or other documents;
- (g) the manner in which and the person by whom the costs of and incidental to any audit under the provisions of this Act are to be determined and defrayed;
- (h) the manner in which summonses issued under this Act are to be served and the payment of the expenses of any person summoned or examined under the provisions of this Act, and of any expenditure incidental to such examination; and
- (i) any other matter which is required to be, or may be, prescribed under this Act.

Laying
of rules
made by
Central
Govern-
ment
before
Parlia-
ment.

63. Every rule made by the Central Government 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 successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal
and
savings.

64. (1) The Administrator-General's Act, 1913, is hereby repealed. 3 of 1913.

Not Corrected: See India Code

of 1963]

Administrators-General

401

(2) Without prejudice to the generality of the provisions of the
10 of 1897. General Clauses Act, 1897, relating to the effect of repeals, the repeal
effected by this section shall not affect the incorporation of any person
holding the office of Administrator-General at the commencement of
this Act.

(3) Notwithstanding anything contained in this section, the pro-
3 of 1913. visions of section 59B of the Administrator-General's Act, 1913, shall
continue to apply as if that Act had not been repealed.

THE APPROPRIATION (RAILWAYS) NO. 6 ACT, 1963

No. 46 OF 1963

[12th December, 1963]

An Act to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services for the purposes of Railways during the financial year ended on the 31st day of March, 1962, in excess of the amounts granted for those services and for that year.

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

Short title. 1. This Act may be called the Appropriation (Railways) No. 6 Act, 1963.

Issue of Rs. 7,19,72,376 out of the Consolidated Fund of India to meet certain expenditure for the year ended on the 31st March, 1962. 2. From and out of the Consolidated Fund of India, the sums specified in column 3 of the Schedule amounting in the aggregate to the sum of seven crores, nineteen lakhs, seventy-two thousand, three hundred and seventy-six rupees shall be deemed to have been authorised to be paid and applied to meet the amount spent for defraying the charges in respect of the services relating to railways specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 1962, in excess of the amounts granted for those services and for that year.

Appropriation. 3. The sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of India under this Act shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 1962.

THE SCHEDULE

(See sections 2 and 3)

No. of Vote	Services and purposes	Sums aggregating to		
		Voted by Parliament	Charged on Consolidated Fund	Total
		Rs.	Rs.	Rs.
3	Payments to Worked Lines and Others.	13,926	...	13,926
5	Working Expenses—Repairs and Maintenance.	...	451	451
6	Working Expenses—Operating Staff.	...	20,307	20,307
7	Working Expenses—Operation (Fuel).	...	3,972	3,972
17	Open Line Works—Replacements.	...	98,679	98,679
20	Appropriation to Development Fund.	7,18,35,041	...	7,18,35,041
TOTAL .		7,18,48,967	1,23,409	7,19,72,376

THE SPECIFIC RELIEF ACT, 1963

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

SECTIONS

1. Short title, extent and commencement.
2. Definitions.
3. Savings.
4. Specific relief to be granted only for enforcing individual civil rights and not for enforcing penal laws.

PART II

SPECIFIC RELIEF

CHAPTER I

RECOVERING POSSESSION OF PROPERTY

5. Recovery of specific immovable property.
6. Suit by person dispossessed of immovable property.
7. Recovery of specific movable property.
8. Liability of person in possession, not as owner, to deliver to persons entitled to immediate possession.

CHAPTER II

SPECIFIC PERFORMANCE OF CONTRACTS

9. Defences respecting suits for relief based on contract.

CONTRACTS WHICH CAN BE SPECIFICALLY ENFORCED

10. Cases in which specific performance of contract enforceable.
11. Cases in which specific performance of contracts connected with trusts enforceable.
12. Specific performance of part of contract.
13. Rights of purchaser or lessee against person with no title or imperfect title.

CONTRACTS WHICH CANNOT BE SPECIFICALLY ENFORCED

14. Contracts not specifically enforceable.

V. S. T. S. A. H.
PERSONS FOR OR AGAINST WHOM CONTRACTS MAY BE
SPECIFICALLY ENFORCED

SECTIONS

15. Who may obtain specific performance.
16. Personal bars to relief.
17. Contract to sell or let property by one who has no title, not specifically enforceable.
18. Non-enforcement except with variation.
19. Relief against parties and persons claiming under them by subsequent title.

DISCRETION AND POWERS OF COURT

20. Discretion as to decreeing specific performance.
21. Power to award compensation in certain cases.
22. Power to grant relief for possession, partition, refund of earnest money, etc.
23. Liquidation of damages not a bar to specific performance.
24. Bar of suit for compensation for breach after dismissal of suit for specific performance.

ENFORCEMENT OF AWARDS AND DIRECTIONS TO EXECUTE SETTLEMENTS

25. Application of preceding sections to certain awards and testamentary directions to execute settlements.

CHAPTER III

RECTIFICATION OF INSTRUMENTS

26. When instrument may be rectified.

CHAPTER IV

RESCISSIION OF CONTRACTS

27. When rescission may be adjudged or refused.
28. Rescission in certain circumstances of contracts for the sale or lease of immovable property, the specific performance of which has been decreed.
29. Alternative prayer for rescission in suit for specific performance.
30. Court may require parties rescinding to do equity.

CHAPTER V

CANCELLATION OF INSTRUMENTS

SECTIONS

31. When cancellation may be ordered.
32. What instruments may be partially cancelled.
33. Power to require benefit to be restored or compensation to be made when instrument is cancelled or is successfully resisted as being void or voidable.

CHAPTER VI

DECLARATORY DECREES

34. Discretion of court as to declaration of status or right.
35. Effect of declaration.

PART III

PREVENTIVE RELIEF

CHAPTER VII

INJUNCTIONS GENERALLY

36. Preventive relief how granted.
37. Temporary and perpetual injunctions.

CHAPTER VIII

PERPETUAL INJUNCTIONS

38. Perpetual injunctions when granted.
39. Mandatory injunctions.
40. Damages in lieu of, or in addition to, injunction.
41. Injunction when refused.
42. Injunction to perform negative agreement.
43. Amendment of Act 10 of 1940.
44. Repeal.

THE SPECIFIC RELIEF ACT, 1963

No. 47 OF 1963

[13th December, 1963]

An Act to define and amend the law relating to certain kinds of specific relief.

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

PART I

PRELIMINARY

1. (1) This Act may be called the Specific Relief Act, 1963.

Short title,
extent and
commencement.

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

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

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

Definitions.

(a) "obligation" includes every duty enforceable by law;

(b) "settlement" means an instrument (other than a will or codicil as defined by the Indian Succession Act, 1925) whereby the destination or devolution of successive interests movable or immovable property is disposed of or is agreed to be disposed of;

39 of 1925.

2 of 1882

(c) "trust" has the same meaning as in section 3 of the Indian Trusts Act, 1882, and includes an obligation in the nature of a trust within the meaning of Chapter IX of that Act;

(d) "trustee" includes every person holding property in trust;

¹11-3-1964; vide Notification No. S.O. 189, dated 13-1-1964, Gazette of India, Pt. II, Sec. 3(ii), p. 214.

(e) all other words and expressions used herein but not defined, and defined in the Indian Contract Act, 1872, have the meanings respectively assigned to them in that Act.

Savings.

3. Except as otherwise provided herein, nothing in this Act shall be deemed—

(a) to deprive any person of any right to relief, other than specific performance, which he may have under any contract; or

(b) to affect the operation of the Indian Registration Act, 1908, on documents.

16 of 1908.

Specific
relief to be
granted
only for
enforcing
individual
civil rights
and not for
enforcing
penal laws.

4. Specific relief can be granted only for the purpose of enforcing individual civil rights and not for the mere purpose of enforcing a penal law.

PART II

SPECIFIC RELIEF

CHAPTER I

RECOVERING POSSESSION OF PROPERTY

Recovery
of specific
immovable
property.

5. A person entitled to the possession of specific immovable property may recover it in the manner provided by the Code of Civil Procedure, 1908.

5 of 1908.

Suit by
person dis-
possessed of
immovable
property.

6. (1) If any person is dispossessed without his consent of immovable property otherwise than in due course of law, he or any person claiming through him may, by suit, recover possession thereof, notwithstanding any other title that may be set up in such suit.

(2) No suit under this section shall be brought—

(a) after the expiry of six months from the date of dispossesion; or

(b) against the Government.

(3) No appeal shall lie from any order or decree passed in any suit instituted under this section, nor shall any review of any such order or decree be allowed.

(4) Nothing in this section shall bar any person from suing to establish his title to such property and to recover possession thereof.

Recovery
of specific
movable
property.

7. A person entitled to the possession of specific movable property may recover it in the manner provided by the Code of Civil Procedure, 1908.

5 of 1908.

Explanation 1.—A trustee may sue under this section for the possession of movable property to the beneficial interest in which the person for whom he is trustee is entitled.

Explanation 2.—A special or temporary right to the present possession of movable property is sufficient to support a suit under this section.

8. Any person having the possession or control of a particular session of movable property is sufficient to support a suit under this compelled specifically to deliver it to the person entitled to its immediate possession, in any of the following cases:—

(a) when the thing claimed is held by the defendant as the agent or trustee of the plaintiff;

(b) when compensation in money would not afford the plaintiff adequate relief for the loss of the thing claimed;

(c) when it would be extremely difficult to ascertain the actual damage caused by its loss;

(d) when the possession of the thing claimed has been wrongfully transferred from the plaintiff.

Explanation.—Unless and until the contrary is proved, the court shall, in respect of any article of movable property claimed under clause (b) or clause (c) of this section, presume—

(a) that compensation in money would not afford the plaintiff adequate relief for the loss of the thing claimed, or, as the case may be;

(b) that it would be extremely difficult to ascertain the actual damage caused by its loss.

CHAPTER II

SPECIFIC PERFORMANCE OF CONTRACTS

§. Except as otherwise provided herein, where any relief is claimed under this Chapter in respect of a contract, the person against whom the relief is claimed may plead by way of defence any ground of relief based on contract, which is available to him under any law relating to contracts.

CONTRACTS WHICH CAN BE SPECIFICALLY ENFORCED

Cases in which specific performance of contract enforceable.

10. Except as otherwise provided in this Chapter, the specific performance of any contract may, in the discretion of the court, be enforced—

- (a) when there exists no standard for ascertaining the actual damage caused by the non-performance of the act agreed to be done; or
- (b) when the act agreed to be done is such that compensation in money for its non-performance would not afford adequate relief.

Explanation.—Unless and until the contrary is proved, the court shall presume—

- (i) that the breach of a contract to transfer immovable property cannot be adequately relieved by compensation in money; and
- (ii) that the breach of a contract to transfer movable property can be so relieved except in the following cases:—
 - (a) where the property is not an ordinary article of commerce, or is of special value or interest to the plaintiff, or consists of goods which are not easily obtainable in the market;
 - (b) where the property is held by the defendant as the agent or trustee of the plaintiff.

Cases in which specific performance of contracts connected with trusts enforceable.

11. (1) Except as otherwise provided in this Act, specific performance of a contract may, in the discretion of the court, be enforced when the act agreed to be done is in the performance wholly or partly of a trust.

(2) A contract made by a trustee in excess of his powers or in breach of trust cannot be specifically enforced.

Specific performance of part of contract.

12. (1) Except as otherwise hereinafter provided in this section the court shall not direct the specific performance of a part of a contract.

(2) Where a party to a contract is unable to perform the whole of his part of it, but the part which must be left unperformed bears only a small proportion to the whole in value and admits of compensation in money, the court may, at the suit of either party, direct the specific performance of so much of the contract as can be performed, and award compensation in money for the deficiency.

(3) Where a party to a contract is unable to perform the whole of his part of it, and the part which must be left unperformed either—

(a) forms a considerable part of the whole, though admitting of compensation in money; or

(b) does not admit of compensation in money;

he is not entitled to obtain a decree for specific performance; but the court may, at the suit of the other party, direct the party in default to perform specifically so much of his part of the contract as he can perform, if the other party—

(i) in a case falling under clause (a), pays or has paid the agreed consideration for the whole of the contract reduced by the consideration for the part which must be left unperformed and in a case falling under clause (b), [the consideration for the whole of the contract without any abatement; and

*[pay or
has paid.]*

(ii) in either case, relinquishes all claims to the performance of the remaining part of the contract and all right to compensation, either for the deficiency or for the loss or damage sustained by him through the default of the defendant.

(4) When a part of a contract which, taken by itself, can and ought to be specifically performed, stands on a separate and independent footing from another part of the same contract which cannot or ought not to be specifically performed, the court may direct specific performance of the former part.

Explanation.—For the purposes of this section, a party to a contract shall be deemed to be unable to perform the whole of his part of it if a portion of its subject-matter existing at the date of the contract has ceased to exist at the time of its performance.

13. (1) Where a person contracts to sell or let certain immovable property having no title or only an imperfect title, the purchaser or lessee (subject to the other provisions of this Chapter), has the following rights, namely:—

Rights of
purchaser
or lessee
against
person with
no title or
imperfect
title.

(a) if the vendor or lessor has subsequently to the contract acquired any interest in the property, the purchaser or lessee may compel him to make good the contract out of such interest;

(b) where the concurrence of other persons is necessary for validating the title, and they are bound to concur at the request of the vendor or lessor, the purchaser or lessee may compel him to procure such concurrence, and when a conveyance by other persons is necessary to validate the title and they

are bound to convey at the request of the vendor or lessor, the purchaser or lessee may compel him to procure such conveyance;

(c) where the vendor professes to sell unencumbered property, but the property is mortgaged for an amount not exceeding the purchase money and the vendor has in fact only a right to redeem it, the purchaser may compel him to redeem the mortgage and to obtain a valid discharge, and, where necessary, also a conveyance from the mortgagee;

(d) where the vendor or lessor sues for specific performance of the contract and the suit is dismissed on the ground of his want of title or imperfect title, the defendant has a right to a return of his deposit, if any, with interest thereon, to his costs of the suit, and to a lien for such deposit, interest and costs on the interest, if any, of the vendor or lessor in the property which is the subject-matter of the contract.

(2) The provisions of sub-section (1) shall also apply, as far as may be, to contracts for the sale or hire of movable property.

CONTRACTS WHICH CANNOT BE SPECIFICALLY ENFORCED

Contracts
not specifi-
cally
enforceable.

14. (1) The following contracts cannot be specifically enforced, namely:—

(a) a contract for the non-performance of which compensation in money is an adequate relief;

(b) a contract which runs into such minute or numerous details or which is so dependent on the personal qualifications or volition of the parties, or otherwise from its nature is such, that the court cannot enforce specific performance of its material terms;

(c) a contract which is in its nature determinable;

(d) a contract the performance of which involves the performance of a continuous duty which the court cannot supervise.

(2) Save as provided by the Arbitration Act, 1940, no contract to refer present or future differences to arbitration shall be specifically enforced; but if any person who has made such a contract (other than an arbitration agreement to which the provisions of the said Act apply) and has refused to perform it, sues in respect of any subject which he has contracted to refer, the existence of such contract shall bar the suit.

(3) Notwithstanding anything contained in clause (a) or clause (c) or clause (d) of sub-section (1), the court may enforce specific performance in the following cases:—

(a) where the suit is for the enforcement of a contract,—

(i) to execute a mortgage or furnish any other security for securing the repayment of any loan which the borrower is not willing to repay at once:

Provided that where only a part of the loan has been advanced the lender is willing to advance the remaining part of the loan in terms of the contract; or

(ii) to take up and pay for any debentures of a company;

(b) where the suit is for,—

(i) the execution of a formal deed of partnership, the parties having commenced to carry on the business of the partnership; or

(ii) the purchase of a share of a partner in a firm;

(c) where the suit is for the enforcement of a contract for the construction of any building or the execution of any other work on land:

Provided that the following conditions are fulfilled, namely:—

(i) the building or other work is described in the contract in terms sufficiently precise to enable the court to determine the exact nature of the building or work;

(ii) the plaintiff has a substantial interest in the performance of the contract and the interest is of such a nature that compensation in money for non-performance of the contract is not an adequate relief; and

(iii) the defendant has, in pursuance of the contract, obtained possession of the whole or any part of the land on which the building is to be constructed or other work is to be executed.

PERSONS FOR OR AGAINST WHOM CONTRACTS MAY BE SPECIFICALLY ENFORCED

15. Except as otherwise provided by this Chapter, the specific performance of a contract may be obtained by—

(a) any party thereto;

(b) the representative in interest or the principal, of any party thereto:

Who may obtain specific performance.

Provided that where the learning, skill, solvency or any personal quality of such party is a material ingredient in the contract, or where the contract provides that his interest shall not be assigned, his representative in interest or his principal shall not be entitled to specific performance of the contract, unless such party has already performed his part of the contract, or the performance thereof by his representative in interest, or his principal, has been accepted by the other party;

(c) where the contract is a settlement on marriage, or a compromise of doubtful rights between members of the same family, any person beneficially entitled thereunder;

(d) where the contract has been entered into by a tenant for life in due exercise of a power, the remainderman;

(e) a reversioner in possession, where the agreement is a covenant entered into with his predecessor in title and the reversioner is entitled to the benefit of such covenant;

(f) a reversioner in remainder, where the agreement is such a covenant, and the reversioner is entitled to the benefit thereof and will sustain material injury by reason of its breach;

(g) when a company has entered into a contract and subsequently becomes amalgamated with another company, the new company which arises out of the amalgamation;

(h) when the promoters of a company have, before its incorporation, entered into a contract for the purposes of the company, and such contract is warranted by the terms of the incorporation, the company:

Provided that the company has accepted the contract and has communicated such acceptance to the other party to the contract.

Personal
bars to
relief.

16. Specific performance of a contract cannot be enforced in favour of a person—

(a) who would not be entitled to recover compensation for its breach; or

(b) who has become incapable of performing, or violates any essential term of, the contract that on his part remains to be performed, or acts in fraud of the contract, or wilfully acts at variance with, or in subversion of, the relation intended to be established by the contract; or

(c) who fails to aver and prove that he has performed or has always been ready and willing to perform the essential terms of the contract which are to be performed by him, other than terms the performance of which has been prevented or waived by the defendant.

Explanation.—For the purposes of clause (c),—

(i) where a contract involves the payment of money, it is not essential for the plaintiff to actually tender to the defendant or to deposit in court any money except when so directed by the court;

(ii) the plaintiff must aver performance of, or readiness and willingness to perform, the contract according to its true construction.

17. (1) A contract to sell or let any immovable property cannot be specifically enforced in favour of a vendor or lessor—

(a) who, knowing himself not to have any title to the property, has contracted to sell or let the property;

(b) who, though he entered into the contract believing that he had a good title to the property, cannot at the time fixed by the parties or by the court for the completion of the sale or letting, give the purchaser or lessee a title free from reasonable doubt.

(2) The provisions of sub-section (1) shall also apply, as far as may be, to contracts for the sale or hire of movable property.

18. Where a plaintiff seeks specific performance of a contract in writing, to which the defendant sets up a variation, the plaintiff cannot obtain the performance sought, except with the variation so set up, in the following cases, namely:—

Contract to sell or let property by one who has no title, not specifically enforceable.

Non-enforcement except with variation.

(a) where by fraud, mistake of fact or mis-representation, the written contract of which performance is sought is in its terms or effect different from what the parties agreed to, or does not contain all the terms agreed to between the parties on the basis of which the defendant entered into the contract;

(b) where the object of the parties was to produce a certain legal result which the contract as framed is not calculated to produce;

(c) where the parties have, subsequently to the execution of the contract, varied its terms.

Relief
against
parties and
persons
claiming
under them
by sub-
sequent title.

19. Except as otherwise provided by this Chapter, specific performance of a contract may be enforced against—

(a) either party thereto;

(b) any other person claiming under him by a title arising subsequently to the contract, except a transferee for value who has paid his money in good faith and without notice of the original contract;

(c) any person claiming under a title which, though prior to the contract and known to the plaintiff, might have been displaced by the defendant;

(d) when a company has entered into a contract and subsequently becomes amalgamated with another company, the new company which arises out of the amalgamation;

(e) when the promoters of a company have, before its incorporation, entered into a contract for the purpose of the company and such contract is warranted by the terms of the incorporation, the company:

Provided that the company has accepted the contract and communicated such acceptance to the other party to the contract.

DISCRETION AND POWERS OF COURT

Discretion
as to decree-
ing specific
perform-
ance.

20. (1) The jurisdiction to decree specific performance is discretionary, and the court is not bound to grant such relief merely because it is lawful to do so; but the discretion of the court is not arbitrary but sound and reasonable, guided by judicial principles and capable of correction by a court of appeal.

(2) The following are cases in which the court may properly exercise discretion not to decree specific performance—

(a) where the terms of the contract or the conduct of the parties at the time of entering into the contract or the other circumstances under which the contract was entered into are such that the contract, though not voidable, gives the plaintiff an unfair advantage over the defendant; or

(b) where the performance of the contract would involve some hardship on the defendant which he did not foresee, whereas its non-performance would involve no such hardship on the plaintiff;

(c) where the defendant entered into the contract under circumstances which though not rendering the contract voidable, makes it inequitable to enforce specific performance.

Explanation 1.—Mere inadequacy of consideration, or the mere fact that the contract is onerous to the defendant or improvident in its nature, shall not be deemed to constitute an unfair advantage within the meaning of clause (a) or hardship within the meaning of clause (b).

Explanation 2.—The question whether the performance of a contract would involve hardship on the defendant within the meaning of clause (b) shall, except in cases where the hardship has resulted from any act of the plaintiff subsequent to the contract, be determined with reference to the circumstances existing at the time of the contract.

(3) The court may properly exercise discretion to decree specific performance in any case where the plaintiff has done substantial acts or suffered losses in consequence of a contract capable of specific performance.

(4) The court shall not refuse to any party specific performance of a contract merely on the ground that the contract is not enforceable at the instance of the other party.

21. (1) In a suit for specific performance of a contract, the plaintiff may also claim compensation for its breach, either in addition to, or in substitution of, such performance.

Power to award compensation in certain cases.

(2) If, in any such suit, the court decides that specific performance ought not to be granted, but that there is a contract between the parties which has been broken by the defendant, and that the plaintiff is entitled to compensation for that breach, it shall award him such compensation accordingly.

(3) If, in any such suit, the court decides that specific performance ought to be granted, but that it is not sufficient to satisfy the justice of the case, and that some compensation for breach of the contract should also be made to the plaintiff, it shall award him such compensation accordingly.

9 of 1872. (4) In determining the amount of any compensation awarded under this section, the court shall be guided by the principles specified in section 73 of the Indian Contract Act, 1872.

(5) No compensation shall be awarded under this section unless the plaintiff has claimed such compensation in his plaint:

Provided that where the plaintiff has not claimed any such compensation in the plaint, the court shall, at any stage of the proceeding, allow him to amend the plaint on such terms as may be just, for including a claim for such compensation.

Explanation.—The circumstance that the contract has become incapable of specific performance does not preclude the court from exercising the jurisdiction conferred by this section.

Power to
grant relief
for posses-
sion, parti-
tion, refund
of earnest
money, etc.

22. (1) Notwithstanding anything to the contrary contained in the Code of Civil Procedure, 1908, any person suing for the specific performance of a contract for the transfer of immovable property may, in an appropriate case, ask for—

(a) possession, or partition and separate possession, of the property, in addition to such performance; or

(b) any other relief to which he may be entitled, including the refund of any earnest money or deposit paid or [made to] *by* him, in case his claim for specific performance is refused.

(2) No relief under clause (a) or clause (b) of sub-section (1) shall be granted by the court unless it has been specifically claimed:

Provided that where the plaintiff has not claimed any such relief in the plaint, the court shall, at any stage of the proceeding, allow him to amend the plaint on such terms as may be just for including a claim for such relief.

(3) The power of the court to grant relief under clause (b) of sub-section (1) shall be without prejudice to its powers to award compensation under section 21.

Liquidation
of damages
not a bar to
specific per-
formance.

23. (1) A contract, otherwise proper to be specifically enforced, may be so enforced, though a sum be named in it as the amount to be paid in case of its breach and the party in default is willing to pay the same, if the court, having regard to the terms of the contract and other attending circumstances, is satisfied that the sum was named only for the purpose of securing performance of the contract and not for the purpose of giving to the party in default an option of paying money in lieu of specific performance.

(2) When enforcing specific performance under this section, the court shall not also decree payment of the sum so named in the contract.

Bar of suit
for compen-
sation for
breach after
dismissal of
suit for
specific per-
formance.

24. The dismissal of a suit for specific performance of a contract or part thereof shall bar the plaintiff's right to sue for compensation for the breach of such contract or part, as the case may be, but shall not bar his right to sue for any other relief to which he may be entitled, by reason of such breach.

1. Subs. by Act 52 of 1964, s. 3 & sch. II (w.e.f. 29-12-64)

ENFORCEMENT OF AWARDS AND DIRECTIONS TO EXECUTE SETTLEMENTS

25. The provisions of this Chapter as to contracts shall apply to awards to which the Arbitration Act, 1940, does not apply and to directions in a will or codicil to execute a particular settlement.

Application of preceding sections to certain awards and testamentary directions to execute settlements.

1 of 1956.

CHAPTER III

RECTIFICATION OF INSTRUMENTS

26. (1) When, through fraud or a mutual mistake of the parties, a contract or other instrument in writing (not being the articles of association of a company to which the Companies Act, 1956, applies) does not express their real intention, then—

(a) either party or his representative in interest may institute a suit to have the instrument rectified; or

(b) the plaintiff may, in any suit in which any right arising under the instrument is in issue, claim in his pleading that the instrument be rectified; or

(c) a defendant in any such suit as is referred to in clause (b), may, in addition to any other defence open to him, ask for rectification of the instrument.

(2) If, in any suit in which a contract or other instrument is sought to be rectified under sub-section (1), the court finds that the instrument, through fraud or mistake, does not express the real intention of the parties, the court may, in its discretion, direct rectification of the instrument so as to express that intention, so far as this can be done without prejudice to rights acquired by third persons in good faith and for value.

(3) A contract in writing may first be rectified, and then if the party claiming rectification has so prayed in his pleading and the court thinks fit, may be specifically enforced.

(4) No relief for the rectification of an instrument shall be granted to any party under this section unless it has been specifically claimed:

Provided that where a party has not claimed any such relief in his pleading, the court shall, at any stage of the proceeding, allow him to amend the pleading on such terms as may be just for including such claim.

CHAPTER IV

RESCISSON OF CONTRACTS

When resci-
sion may
be adjudged
or refused.

27. (1) Any person interested in a contract may sue to have it rescinded, and such rescission may be adjudged by the court in any of the following cases, namely:—

(a) where the contract is voidable or terminable by the plaintiff;

(b) where the contract is unlawful for causes not apparent on its face and the defendant is more to blame than the plaintiff.

(2) Notwithstanding anything contained in sub-section (1), the court may refuse to rescind the contract—

(a) where the plaintiff has expressly or impliedly ratified the contract; or

(b) where, owing to the change of circumstances which has taken place since the making of the contract (not being due to any act of the defendant himself), the parties cannot be substantially restored to the position in which they stood when the contract was made; or

(c) where third parties have, during the subsistence of the contract, acquired rights in good faith without notice and for value; or

(d) where only a part of the contract is sought to be rescinded and such part is not severable from the rest of the contract.

Explanation.—In this section “contract”, in relation to the territories to which the Transfer of Property Act, 1882, does not extend, means a contract in writing.

Rescission in certain circumstances of contracts for the sale or lease of immovable property, the specific performance of which has been decreed.

28. (1) Where in any suit a decree for specific performance of a contract for the sale or lease of immovable property has been made and the purchaser or lessee does not, within the period allowed by the decree or such further period as the court may allow, pay the purchase money or other sum which the court has ordered him to pay, the vendor or lessor may apply in the same suit in which the decree is made, to have the contract rescinded and on such application the court may, by order, rescind the contract either so far as regards the party in default or altogether, as the justice of the case may require.

(2) Where a contract is rescinded under sub-section (1), the court—

(a) shall direct the purchaser or the lessee, if he has obtained possession of the property under the contract, to restore such possession to the vendor or lessor, and

(b) may direct payment to the vendor or lessor of all the rents and profits which have accrued in respect of the property from the date on which possession was so obtained by the purchaser or lessee until restoration of possession to the vendor or lessor, and, if the justice of the case so requires, the refund of any sum paid by the vendee or lessee as earnest money or deposit in connection with the contract.

(3) If the purchaser or lessee pays the purchase money or other sum which he is ordered to pay under the decree within the period referred to in sub-section (1), the court may, on application made in the same suit, award the purchaser or lessee such further relief as he may be entitled to, including in appropriate cases all or any of the following reliefs, namely:—

(a) the execution of a proper conveyance or lease by the vendor or lessor;

(b) the delivery of possession, or partition and separate possession, of the property on the execution of such conveyance or lease.

(4) No separate suit in respect of any relief which may be claimed under this section shall lie at the instance of a vendor, purchaser, lessor or lessee, as the case may be.

(5) The costs of any proceedings under this section shall be in the discretion of the court.

29. A plaintiff instituting a suit for the specific performance of a contract in writing may pray in the alternative that, if the contract cannot be specifically enforced, it may be rescinded and delivered up to be cancelled; and the court, if it refuses to enforce the contract specifically, may direct it to be rescinded and delivered up accordingly.

30. On adjudging the rescission of a contract, the court may require the party to whom such relief is granted to restore, so far as may be, any benefit which he may have received from the other party and to make any compensation to him which justice may require.

Alternative
prayer for
rescission
in suit for
specific per-
formance.

Court may
require
parties re-
scinding to
do equity.

CHAPTER V

CANCELLATION OF INSTRUMENTS

When cancellation may be ordered.

31. (1) Any person against whom a written instrument is void or voidable, and who has reasonable apprehension that such instrument, if left outstanding may cause him serious injury, may sue to have it adjudged void or voidable; and the court may, in its discretion, so adjudge it and order it to be delivered up and cancelled.

(2) If the instrument has been registered under the Indian Registration Act, 1908, the court shall also send a copy of its decree to the officer in whose office the instrument has been so registered; and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation.

16 of 1908.

What instruments may be partially cancelled.

32. Where an instrument is evidence of different rights or different obligations, the court may, in a proper case, cancel it in part and allow it to stand for the residue.

Power to require benefit to be restored or compensation to be made when instrument is cancelled or is successfully resisted as being void or voidable.

33. (1) On adjudging the cancellation of an instrument, the court may require the party to whom such relief is granted, to restore, so far as may be any benefit which he may have received from the other party and to make any compensation to him which justice may require.

(2) Where a defendant successfully resists any suit on the ground—

(a) that the instrument sought to be enforced against him in the suit is voidable, the court may if the defendant has received any benefit under the instrument from the other party, require him to restore, so far as may be, such benefit to that party or to make compensation for it;

(b) that the agreement sought to be enforced against him in the suit is void by reason of his not having been competent to contract under section 11 of the Indian Contract Act, 1872, the 9 of 1872. court may, if the defendant has received any benefit under the agreement from the other party, require him to restore, so far as may be, such benefit to that party, to the extent to which he or his estate has benefited thereby.

CHAPTER VI

DECLARATORY DECREES

34. Any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying, or interested to deny, his title to such character or right, and the court may in its discretion make therein a declaration that he is so entitled, and the plaintiff need not in such suit ask for any further relief;

Provided that no court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration of title, omits to do so.

Explanation.—A trustee of property is a "person interested to deny" a title adverse to the title of some one who is not in existence, and for whom, if in existence, he would be a trustee.

35. A declaration made under this Chapter is binding only on the parties to the suit, persons claiming through them respectively, and, where any of the parties are trustees, on the persons for whom, if in existence at the date of the declaration, such parties would be trustees.

PART III

PREVENTIVE RELIEF

CHAPTER VII

INJUNCTIONS GENERALLY

36. Preventive relief is granted at the discretion of the court by injunction, temporary or perpetual.

37. (1) Temporary injunctions are such as are to continue until a specified time, or until the further order of the court, and they may be granted at any stage of a suit, and are regulated by the Code of Civil Procedure, 1908.

(2) A perpetual injunction can only be granted by the decree made at the hearing and upon the merits of the suit; the defendant is thereby perpetually enjoined from the assertion of a right, or from the commission of an act, which would be contrary to the rights of the plaintiff.

CHAPTER VIII

PERPETUAL INJUNCTIONS

Perpetual injunction when granted.

38. (1) Subject to the other provisions contained in or referred to by this Chapter, a perpetual injunction may be granted to the plaintiff to prevent the breach of an obligation existing in his favour, whether expressly or by implication.

(2) When any such obligation arises from contract, the court shall be guided by the rules and provisions contained in Chapter II.

(3) When the defendant invades or threatens to invade the plaintiff's right to, or enjoyment of, property, the court may grant a perpetual injunction in the following cases, namely:—

(a) where the defendant is trustee of the property for the plaintiff;

(b) where there exists no standard for ascertaining the actual damage caused, or likely to be caused, by the invasion;

(c) where the invasion is such that compensation in money would not afford adequate relief;

(d) where the injunction is necessary to prevent a multiplicity of judicial proceedings.

Mandatory injunctions.

39. When, to prevent the breach of an obligation, it is necessary to compel the performance of certain acts which the court is capable of enforcing, the court may in its discretion grant an injunction to prevent the breach complained of, and also to compel performance of the requisite acts.

Damages in lieu of, or in addition to, injunction.

40. (1) The plaintiff in a suit for perpetual injunction under section 38, or mandatory injunction under section 39, may claim damages either in addition to, or in substitution for, such injunction and the court may, if it thinks fit, award such damages.

(2) No relief for damages shall be granted under this section unless the plaintiff has claimed such relief in his plaint:

Provided that where no such damages have been claimed in the plaint, the court shall, at any stage of the proceedings, allow the plaintiff to amend the plaint on such terms as may be just for including such claim.

(3) The dismissal of a suit to prevent the breach of an obligation existing in favour of the plaintiff shall bar his right to sue for damages for such breach.

41. An injunction cannot be granted—

Injunction
when
refused.

- (a) to restrain any person from prosecuting a judicial proceeding pending at the institution of the suit in which the injunction is sought, unless such restraint is necessary to prevent a multiplicity of proceedings;
- (b) to restrain any person from instituting or prosecuting any proceeding in a court not subordinate to that from which the injunction is sought;
- (c) to restrain any person from applying to any legislative body;
- (d) to restrain any person from instituting or prosecuting any proceeding in a criminal matter;
- (e) to prevent the breach of a contract the performance of which would not be specifically enforced;
- (f) to prevent, on the ground of nuisance, an act of which it is not reasonably clear that it will be a nuisance;
- (g) to prevent a continuing breach in which the plaintiff has acquiesced;
- (h) when equally efficacious relief can certainly be obtained by any other usual mode of proceeding except in case of breach of trust;
- (i) when the conduct of the plaintiff or his agents has been such as to disentitle him to the assistance of the court;
- (j) when the plaintiff has no personal interest in the matter.

42. Notwithstanding anything contained in clause (e) of section 41, where a contract comprises an affirmative agreement to do a certain act, coupled with a negative agreement, express or implied, not to do a certain act, the circumstance that the court is unable to compel specific performance of the affirmative agreement shall not preclude it from granting an injunction to perform the negative agreement:

Provided that the plaintiff has not failed to perform the contract so far as it is binding on him.

43. In section 32 of the Arbitration Act, 1940, after the words "nor shall any arbitration, agreement or award be", the word "enforced" Amendment of Act 10 of 1940 shall be inserted.

1 of 1877.

44. The Specific Relief Act, 1877, is hereby repealed.

Repeal.

Rep. by Act 56 of 1974, S. 2 & Sch I

THE REQUISITIONING AND ACQUISITION OF
IMMOVABLE PROPERTY (AMENDMENT)
ACT, 1963

No. 48 OF 1963

[14th December, 1963]

An Act further to amend the Requisitioning and Acquisition
of Immovable Property Act, 1952.

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

Short title. 1. This Act may be called the Requisitioning and Acquisition
of Immovable Property (Amendment) Act, 1963.

**Amendment
of section 1.** 2. In section 1 of the Requisitioning and Acquisition of Immovable
Property Act, 1952, for sub-section (3), the following sub-section ~~30~~ of 1952.
shall be substituted, namely:—

“(3) It shall cease to have effect on the 14th day of March,
1970, except as respects things done or omitted to be done before
such cessation of operation of this Act, and section 6 of the General
Clauses Act, 1897, shall apply upon such cessation of operation as if ~~10~~ of 1897.
it had then been repealed by a Central Act.”

Rep by Act 56 of 1974, s.2 + Sch I

THE EAST PUNJAB AYURVEDIC AND UNANI
PRACTITIONERS (DELHI AMENDMENT)
ACT, 1963

No. 49 OF 1963

[14th December, 1963]

An Act further to amend the East Punjab Ayurvedic and Unani Practitioners Act, 1949 as in force in the Union territory of Delhi.

Be it enacted by Parliament in the Fourteenth year of the Republic of India as follows:

1. (1) This Act may be called the East Punjab Ayurvedic and Unani Practitioners (Delhi Amendment) Act, 1963.

Short title and commencement.

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

2. In section 16 of the East Punjab Ayurvedic and Unani Practitioners Act, 1949 (hereinafter referred to as the principal Act), to sub-section (2), the following proviso shall be added, namely:

Amendment of section 16.

"Provided that any such person, who has not been registered as a practitioner, may make within six months next after the commencement of the East Punjab Ayurvedic and Unani Practitioners (Delhi Amendment) Act, 1963, an application for such registration and shall, on proof to the satisfaction of the Registrar that he had been in regular practice as a practitioner for a period of not less than ten years immediately preceding the date on which he might have made an application for being registered as a practitioner under this Act and of his continued practice as such since then, be entitled to have his name entered in the register on payment of the prescribed fee."

¹ 15-4-1964: vide Notification No. S. O. 1053, dated 7-3-1964. Gazette of India, 1964, Pt. II, Sec. 3 (ii). p. 1281.

Amend-
ment of
section 34.

3. After sub-section (2) of section 34 of the principal Act, the following sub-section shall be inserted, namely:—

“(2A) Notwithstanding anything contained in sub-section (2), every person shall be entitled to have his name entered in the aforesaid list on payment of five rupees within a period of six months from the date of commencement of the East Punjab Ayurvedic and Unani Practitioners (Delhi Amendment) Act, 1963, if he proves to the satisfaction of the Registrar that he, having been in regular practice of the Ayurvedic or Unani systems of medicine in this Union territory on the date mentioned in the notification under sub-section (1), has been in regular practice since then.”

Amend-
ment of
section 37.

4. In section 37 of the principal Act, the following proviso shall be added, namely:—

“Provided that the provisions of this section shall not apply to the persons registered under the proviso to sub-section (2) of section 16.”

Rep. by Act 56 of 1974, S. 2 & Sch I

THE INDIAN TARIFF (SECOND AMENDMENT)
ACT, 1963

NO. 50 OF 1963

[20th December, 1963]

An Act further to amend the Indian Tariff Act, 1934.

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

1. (1) This Act may be called the Indian Tariff (Second Amendment) Act, 1963. Short title
and com-
mencement.
- (2) It shall come into force on the first day of January, 1964.
2. In the First Schedule to the Indian Tariff Act, 1934,— Amend-
ment of
First
Schedule.
- (i) in Items Nos. 46, 46(1), 47, 47(1), 48, 72(34), 72(40) and 75(12A), in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1963" wherever they occur, the word, figures and letters "December 31st, 1966" shall be substituted;
- (ii) in Item No. 70(2), in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1963", the word, figures and letters "December 31st, 1968" shall be substituted;
- (iii) in Item No. 70(3),—
- (a) in the fourth column headed "Standard rate of duty" for the figures and words "45 per cent. *ad valorem* or Rs. 88.60 per quintal, whichever is higher", the figures and words "35 per cent. *ad valorem* or Rs. 85 per quintal, whichever is higher" shall be substituted;

(b) in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1963", the word, figures and letters "December 31st, 1968" shall be substituted;

(iv) in Item No. 71(14),—

(a) in the third column headed "Nature of duty", for the word "Protective", the word "Revenue" shall be substituted;

(b) in the last column headed "Duration of protective rates of duty", the existing entry shall be omitted;

(v) in Item No. 72(12),—

(a) in the fourth column headed "Standard rate of duty", for the figures and words "35 per cent. *ad valorem*", the figures and words "25 per cent. *ad valorem*" shall be substituted;

(b) in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1963", the word, figures and letters "December 31st, 1966" shall be substituted;

(vi) in Item No. 72(14),—

(a) in the second column headed "Name of article", for the existing entry under 72(14)(a)(i), the following entry shall be substituted, namely:—

"Squirrel cage and slip ring induction motors and synchronous motors of a brake-horse-power not exceeding 3,000 but not less than one brake-horse-power, excluding variable speed commutator motors.";

(b) in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1963" wherever they occur, the word, figures and letters "December 31st, 1965" shall be substituted;

(vii) in Item No. 72(39),—

(a) in the second column headed "Name of article", for the existing entry, the following entry shall be substituted, namely:—

"Power and Distribution Transformers up to 50,000 KVA and 220 KV on the H.T. side (primary voltage being

over 250) excluding furnace, rectifier and flame-proof transformers and parts of such transformers, not otherwise specified.”;

(b) in the last column headed “Duration of protective rates of duty”, for the word, figures and letters “December 31st, 1963”, the word, figures and letters “December 31st, 1965” shall be substituted;

(viii) in Items Nos. 75(5), 75(6), 75(7), 75(7A) and 75(8),—

(a) in the third column headed “Nature of duty”, for the word “Protective” wherever it occurs, the word “Revenue” shall be substituted;

(b) in the last column headed “Duration of protective rates of duty”, the existing entries shall be omitted;

(ix) in Item No. 75(12), in the second column headed “Name of article”, for the figures, brackets and letter “75 (18)(b)”, the figures, brackets and letter “75(18)(b) (ii)” shall be substituted;

(x) in Item No. 75(16),—

(a) in the fourth column headed “Standard rate of duty”, for the figures and words “92½ per cent. ad valorem”, the figures and words “77½ per cent. ad valorem” shall be substituted;

(b) in the last column headed “Duration of protective rates of duty”, for the word, figures and letters “December 31st, 1963”, the word, figures and letters “December 31st, 1965” shall be substituted;

(xi) for Item No. 75(18), the following Item shall be substituted, namely:—

“75 (18) (a) Single cylinder fuel injection pumps for stationary diesel engines and component parts of such pumps. (b) Nozzle holders with a clamping capacity up to 25.4 mm. clamping diameter for nozzles (atomisers) for use on	Revenue 20 per cent. <i>ad valorem</i>
---	--

Indian Tariff (Second Amendment) [ACT 50 OF 1963]

stationary or automobile diesel engines and nozzles therefor; and component parts of such nozzles and nozzle holders:

(i) for use on stationary diesel engines;	Revenue	20 per cent. ... -- --
(ii) for use on automobile diesel engines.	Revenue	50 per cent. ... " ad valorem.

Rep'd by Act 56 of 1974, S. 2 & Sch I

THE PREVENTIVE DETENTION (CONTINUANCE)
ACT, 1963

No. 51 OF 1963

[30th December, 1963]

An Act to continue the Preventive Detention Act, 1950, for a further period.

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

1. This Act may be called the Preventive Detention (Continuance) Short title. Act, 1963.

2. In sub-section (3) of section 1 of the Preventive Detention Act, Amendment of 1950, for the figures, letters and words "31st day of December, 1963", section 1. the figures, letters and words "31st day of December, 1966" shall be substituted.

Not Corrected: See India Code, Vol IV A, Pt I p 139.

THE UNIT TRUST OF INDIA ACT, 1963

ARRANGEMENT OF SECTIONS

SECTIONS

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II

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

3. Establishment and incorporation of Unit Trust of India.
4. Initial capital of Trust.
5. Maintenance of register of contributors.
6. Issue of contribution certificates.
7. Right of transfer of contribution certificates in certain cases.
8. Rights and liabilities of holders of contribution certificates.

CHAPTER III

MANAGEMENT OF THE TRUST

9. Management.
10. Board of trustees.
11. Term of office of trustees.
12. Disqualification for being a trustee.
13. Vacation and resignation of office of trustee.
14. Chairman and executive trustee.
15. Casual vacancy in office of chairman or executive trustee.
16. Fees and allowances of certain trustees.
17. Meetings of Board.
18. Executive Committee and other committees.

Not Corrected. See India Code

[ACT 52 OF 1963]

Unit Trust of India

135

SECTIONS

CHAPTER IV

POWERS AND FUNCTIONS OF THE TRUST

19. Business of Trust.
20. Borrowing powers.
21. Unit scheme.

CHAPTER V

ALLOCATION AND DISTRIBUTION OF INCOME

22. Allocation of income, interest and other expenses.
23. Distribution of income.
24. Distribution of income after refund of initial capital.
25. Definition of year.

CHAPTER VI

ACCOUNTS AND AUDIT

26. Preparation of balance-sheet, etc., of Trust.
27. Audit.
28. Publication of annual accounts and reports.
29. Furnishing of information to Reserve Bank.

CHAPTER VII

MISCELLANEOUS

30. Power of Reserve Bank to give directions.
31. Staff of Trust.
32. Income-tax and other taxes.
33. Act 18 of 1891 to apply in relation to Trust.
34. Declaration of fidelity and secrecy.
35. Defects in appointments not to invalidate acts, etc.
36. Indemnity of trustees.
37. Protection of action taken under this Act.
38. Delegation of powers.
39. No trust to be taken notice of and protection from attachment.
40. Repayment of contribution in case of winding up of contributing institution.

Not Corrected; See India/Code

436 *Unit Trust of India* [ACT 52 OF 1963]

SECTIONS

41. Power of Central Government to reconstitute Board.
42. Liquidation of Trust.
43. Regulations.
44. Amendment of certain enactments.

THE FIRST SCHEDULE.—DECLARATION OF FIDELITY AND SECRECY.

THE SECOND SCHEDULE.—AMENDMENT OF CERTAIN ENACTMENTS.

Not Corrected: See India Code, Vol IV-A, Pt I, p 139.

THE UNIT TRUST OF INDIA ACT, 1963

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
commencement.

(2) It extends to the whole of India.

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

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

Definitions.

(a) "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;

(d) "initial capital" means the capital of the Trust referred to in section 4;

¹11-2-1964: vide Notification No. G.S.R. 172, dated 31-1-1964, Gazette of India, Extraordinary, Pt. II, Sec. 3(i), p. 47.

(e) "Life Insurance Corporation" means the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956; ~~11, 12, 13, 14~~

31 of 1956.

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

(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.

(i) "securities" means shares, debentures, bonds and other stock of any company or other body corporate, whether incorporated in India or outside, and securities 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 includes Government security as defined in section 2 of the Public Debt Act, 1944, but does not include mortgages on immovable property;

18 of 1944.

(j) "State Bank" means the State Bank of India constituted under the State Bank of India Act, 1955;

23 of 1955.

(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 the unit scheme;

(o) "unit capital" means the aggregate of the face value of the units sold under the unit scheme and outstanding for the time being;

(p) "unit certificate" means a certificate issued to the purchaser of a unit under the unit scheme;

(q) "unit holder" means a person for the time being recognised by the Trust as the holder of a unit certificate under the unit scheme;

(r) "unit scheme" means a scheme made under section 21.

Not Corrected: See India Code

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.

Establishment and incorporation of Unit Trust of India.

(2) The head office of the Trust shall be at Bombay or at such other place as the Reserve Bank 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.

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.

Initial capital of Trust.

(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 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 institu-

tions, 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, it may refund the whole or any part of such capital to the contributing institutions:

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

Mainten-
ance of
register of
contribu-
tories.

Issue of
contribution certi-
ficates.

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.

6. (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.

(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.

Not Corrected: See India Code

[or 1963]

Unit Trust of India

441

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 purposes 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.

Management.

(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:—

Board of trustees

(a) the Chairman to be appointed by the Reserve Bank;

(b) four trustees to be nominated by the Reserve 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 Reserve Bank :

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.

Term of office of trustees.

11. (1) A trustee nominated under clause (b) of section 10, if he is an officer of the Reserve 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, or a trustee elected under clause (e) of that section shall hold office for four years and thereafter until 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:

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 (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.

Disqualification for being a trustee.

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

(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 Reserve Bank, involves moral turpitude.

Not Corrected: See India Code

[OF 1963]

Unit Trust of India

443

Vacation
and resig-
nation of
office of
trustee.

13. (1) If a 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, 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 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 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 Chairman
and
executive
trustee.
may be either whole-time or part-time:

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 Reserve Bank may specify;

(b) receive such salary or allowances or both from the Trust and be governed by such terms and conditions of service as the Reserve Bank may determine; and

(c) perform such functions as the Board may entrust or delegate to him.

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 Reserve Bank 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.

Casual
vacancy
in office
of Chair-
man or
executive
trustee.

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 shall 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.

Meetings
of Board

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.

Executive
Committee
and other
committees

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 Reserve Bank, such executive trustee, and
- (c) two other trustees nominated in this behalf by the Reserve Bank.

(2) The Chairman of the Board shall be the Chairman of the Executive Committee.

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

19. (1) The Trust may carry on and transact any of the following kinds of business, namely:—

- (a) selling and purchasing units;
- (b) investing in, acquiring, holding or disposing of, securities and exercising and enforcing all powers and rights incidental thereto;
- (c) keeping money on deposit with scheduled banks or with such other institutions as may be prescribed;
- (d) generally, doing all such matters and things as may be incidental to or consequential upon the discharge of its functions under this Act.

(2) The Trust shall not take on lease, purchase or otherwise acquire except for its own use any immovable property or any interest therein.

20. (1) The Trust may borrow from any authority or person, not being Government or the Reserve Bank, against such security and powers on such terms and conditions as may be agreed upon.

(2) The Trust may borrow money from the Reserve Bank 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 money by any law for the time being in force in India.

(3) If the Board is of opinion that a situation has arisen in which it is necessary or expedient for the Trust to borrow money from the Reserve Bank against securities other than those mentioned in sub-section (2), the Trust may borrow money from that bank repayable on demand or within a period not exceeding eighteen months from the date on which the money is so borrowed against its own bonds which the Trust may issue with the approval of the Central Government.

(4) The bonds issued by the Trust under sub-section (3) 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.

21. (1) For the purpose of providing facilities for participation in the income, profits and gains arising out of the acquisition, holding,

Business
of Trust.

management or disposal of securities by the Trust, the Board shall make a 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—

(a) the issue of units and the face value of each unit, which shall not be less than ten rupees or more than one hundred rupees;

(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;

(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;

(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.

(3) The Board may, from time to time, add to or otherwise amend the scheme made under sub-section (1).

(4) The scheme made under sub-section (1) and every amendment thereof under sub-section (3) shall be notified in the Official Gazette.

CHAPTER V

ALLOCATION AND DISTRIBUTION OF INCOME

22. (1) The total gross income of the Trust in any year shall be allocated to the initial capital and the unit capital in the same proportion as the former bears to the latter at the end of that year.

(2) The interest payable for any year for any borrowings made by the Trust and the total amount of other expenses incurred by the Trust in that year shall be allocated and charged to the initial capital and the unit capital in the same proportion as is referred to in sub-section (1):

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

23. (1) The gross 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 proportion to their contributions to the initial capital.

(2) The gross income allocated to the unit capital in any year reduced by the interest and the amount of other expenses charged for that year to the unit capital may, but not less than ninety per cent. of the gross income so reduced shall, be distributed to the unit holders in respect of that year.

24. Notwithstanding anything contained in section 22 or section 23, where the whole of the initial capital has been refunded to the contributing institutions, the gross income in any year reduced by the interest payable for that year for any borrowings made by the Trust and the total amount of other expenses incurred by the Trust in that year may, but not less than ninety per cent. of the gross income so reduced shall, be distributed to the unit holders in respect of that year.

25. 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 section 26.

Definition
of year

Allocation
of income,
interest and
other ex-
penses.

Distribution
of income
after refund
of initial
capital.

CHAPTER VI

ACCOUNTS AND AUDIT

Preparation
of balance-
sheet, etc.,
of Trust.

26. (1) The balance-sheet and accounts of the Trust shall be prepared and maintained in such form and manner as may be prescribed.

(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.

Audit.

27. (1) The affairs of the Trust shall be audited by an auditor duly qualified to act as an auditor under sub-section (1) of section 226 of the Companies Act, 1956, who shall be appointed by the Trust and shall receive such remuneration as the Trust may fix.

(2) The auditor shall be supplied with a copy of 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 or other employee of the Trust, whether it has been given and whether it is satisfactory.

Publication
of annual
accounts
and
reports.

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.

Furnishing
of informa-
tion to Re-
serve Bank.

29. The Trust shall furnish, from time to time, to the Reserve Bank such information as the Reserve Bank may require.

Not Corrected: See India Code

of 1963]

Unit Trust of India

449

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 Reserve 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 Reserve 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.

(2) Without prejudice to the provisions 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.

32. (1) Notwithstanding anything contained in the Income-tax Act, 1961, the Super Profits Tax Act, 1963, or in any other enactment for the time being in force relating to income-tax, super-tax or super profits tax, 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 or any other tax in respect of any income, profits or gains derived by it from any source;

(b) where the income received by a unit holder, being an individual, from the Trust in respect of units does not exceed one thousand rupees, such income, and where such income exceeds one thousand rupees, a sum of one thousand rupees, shall be excluded in computing the total income of the unit holder for purposes of income-tax and in the case of any such unit holder who would not be liable to super-tax but for the inclusion of such income in his total income, also for purposes of super-tax; and

(c) where a contributing institution is liable to be assessed to super profits tax under the Super Profits Tax Act, 1963, in respect of its own income, profits or gains and receives any sum from the Trust under this Act 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.

14 of 1963.

Subs. by Act 10 of 1965, S. 73 (w.e.f. 1-4-65)

(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; and (4 xx)

(b) no deduction of income-tax shall be made by the Trust from the income distributed by it to a unit holder being an individual, [who is resident; and 74]

(3) Subject to the foregoing sub-sections, for the purposes of the Income-tax Act, 1961,—

43 of 1961.

(a) any distribution of income received by a unit holder from the Trust shall be deemed to be his income by way of dividends; and

(b) the Trust shall be deemed to be a company.

Act 18 of
1891 to
apply in
relation to
Trust.

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.

Declaration
of fidelity
and secrecy.

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.

Defects in
appointments
not to
invalidate
acts, etc.

35. (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.

(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.

Indemnity
of trustees.

36. (1) Every trustee shall be indemnified by the Trust against all losses and expenses incurred by him in, or in relation to, the discharge of his duties except such as are caused by his own wilful act or default.

(2) A 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 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

*+ omitted and ms. by Act 10 of 1965, S. 73
(w.e.f. 1-4-65)*

in good faith in the execution of the duties of his office or in relation thereto.

37. No suit or other legal proceeding shall lie against the Trust or the Reserve Bank or any trustee or any officer or other employee of the Trust or the Reserve 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.

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 and duties under this Act as it may deem necessary.

39. (1) No notice of a trust, express, implied or constructive, shall be receivable by the Trust.

(2) 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.

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 a 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.

(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 or 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 Reserve Bank, by order, provide for the reconstitution of the Board.

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

- (a) the number of trustees that will constitute the Board;
- (b) the manner in which they shall be chosen;
- (c) their term of office;
- (d) filling of casual vacancies;

Unit Trust of India

[ACT 5]

(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.

**Liquidation
of trust.**

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.

(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 that 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 that 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.

**Regula-
tion.**

43. (1) The Board may, with the previous approval of the Reserve Bank, 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.

(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 allowances 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;
- (i) the institutions with which money may be kept on deposit;
- (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; and
- (o) any other matter which is to be, or may be, prescribed.

(3) Any regulation 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.

44. The enactments specified in the Second Schedule to this Act shall be amended in the manner provided therein.

Amendment
of certain
enactments.

THE FIRST SCHEDULE

(See section 34)

DECLARATION OF FIDELITY AND SECRECY

I do hereby declare that I will faithfully, truly and to the best of my skill and ability execute and perform the duties required of me as trustee, auditor, officer or other employee (as the case may be) of the Unit Trust of India and which properly relate to the office or position held by me in the said Trust.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the Unit Trust of India or to the affairs of any person having any dealing with the said Trust; nor will I allow any such person to inspect or have access to any books or documents belonging to or in the possession of the Unit Trust of India and relating to the business of the said Trust or the business of any person having any dealing with the said Trust.

Signed before me:

(Signature)

THE SECOND SCHEDULE

(See section 44)

AMENDMENT OF CERTAIN ENACTMENTS

PART I

AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934

(2 OF 1934)

Amendments

Amend-
ment of
section 2.

1. In section 2, after clause (f), insert the following clause, namely:—

“(g) “Unit Trust” means the Unit Trust of India established under section 3 of the Unit Trust of India Act, 1963.”

Amend-
ment of
section 17.

2. In section 17,—

(a) after clause (4BB), insert the following clause, namely:—

“(4BBB) the making to the Unit Trust of loans and advances—

(i) repayable on demand or on the expiry of a fixed period not exceeding ninety days from the date of

Not Corrected. See India Code

[6/1963]

Unit Trust of India

455

such loan or advance against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India, or

(ii) repayable on demand or within a period of eighteen months from the date of such loan or advance against the security of the bonds of the Unit Trust issued with the approval of and guaranteed by the Central Government;";

(b) after clause (4E), insert the following clause, namely:—

"(4F) contributing to the initial capital of the Unit Trust.".

PART II

AMENDMENT TO THE INDUSTRIAL DISPUTES ACT, 1947

(14 OF 1947)

Amendment

In section 2, in sub-clause (i) of clause (a), after "Deposit Insurance Corporation Act, 1961 or" insert the following, namely:—
Amendment of section 2.

"the Unit Trust of India established under section 3 of the Unit Trust of India Act, 1963, or".

PART III

AMENDMENT TO THE INDUSTRIAL FINANCE CORPORATION ACT, 1948

(15 OF 1948)

Amendment

For section 20, substitute the following, namely:—

Substitution of new section for section 20.

"20. The Corporation may invest its funds in the securities of the Central Government or of any State Government and may, with the approval of the Central Government, contribute to the initial capital of the Unit Trust of India established under the Unit Trust of India Act, 1963".

Investment of funds.

Not Corrected: See India Code

456

Unit Trust of India

[ACT 52 OF 1963]

PART IV

AMENDMENT TO THE STATE BANK OF INDIA ACT, 1955

(23 OF 1955)

Amendment

Amend-
ment of
section 33.

In section 33, after clause (xixa), insert the following clause, namely:—

"(xixaa) contributing to the initial capital of the Unit Trust of India established under the Unit Trust of India Act, 1963;".

THE COMPANIES (AMENDMENT) ACT, 1963

No. 53 OF 1963

[30th December, 1963.]

An Act further to amend the Companies Act, 1956.

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

1. (1) This Act may be called the Companies (Amendment) Act, 1963. Short title and commencement.

(2) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

1 of 1956. 2. In section 2 of the Companies Act, 1956 (hereinafter referred to as the principal Act),— Amendment of section 2.

(a) after clause (10), the following clause shall be inserted, namely:—

(10A) "Company Law Board" means the Board of Company Law Administration constituted under section 10E;;

(b) after clause (49), the following clause shall be inserted, namely:—

(49A) "Tribunal" means the Tribunal constituted under section 10A;.

¹The provisions of this Act except Section 8 come into force from 1-1-1964; vide Notification No. S.O. 3607, dated 31-12-1963, Gazette of India, Extraordinary, Pt. II, Sec. 3(ii), p. 899.

457
Section 8 comes into force from 1-1-1964; vide Notification No. S.O. 2988, dt. 1-9-1964, Gaz. of India, Ex., Pt. II, Sec. 3 (ii), p. 771

Insertion
of new sec-
tions after
Section 10

in Part I

Constitu-
tion of
Tribunal.

3. After section 10 of the principal Act, the following sections shall be inserted in Part I, namely:—

'10A. (1) The Central Government may, by notification in the Official Gazette, constitute a Tribunal consisting of as many members as it thinks fit, to exercise and discharge—

(a) the powers and functions conferred on such Tribunal by or under this Act;

(b) all or any of the powers and functions conferred on the Court by or under section 155, section 203 in so far as it relates to the granting of leave under that section, section 240, and sections 397 to 407, which the Central Government may, from time to time, by notification in the Official Gazette, specify:

Provided that where any powers and functions are or become exercisable by the Tribunal by virtue of this section, the Court shall not exercise those powers and functions and any reference to the Court in any of the sections, powers and functions of the Court whereunder have been conferred on the Tribunal, shall be construed as a reference to the Tribunal.

(2) The members of the Tribunal shall be persons who have, in the opinion of the Central Government, adequate knowledge of, and experience in,—

(a) law, or

(b) matters of accountancy, or

(c) administration or management of companies and law relating thereto.

(3) The Central Government shall appoint one of the members of the Tribunal having knowledge of, and experience in law, who—

(a) is or has been a Judge of a High Court, or

(b) is qualified for appointment as Judge of a High Court,

to be the chairman of the Tribunal.

(4) The chairman and other members of the Tribunal shall receive from the Central Government such remuneration, and shall be governed by such conditions of service, as the Central Government may determine:

Provided that the remuneration of the chairman or any other member shall not be varied to his disadvantage after his appointment.

(5) Nothing in this section shall derogate from the powers and functions of the Court in relation to any proceeding pending before the Court immediately before such powers and functions are or become exercisable by the Tribunal by virtue of this section and the Court shall dispose of such proceeding accordingly.

(6) The provisions of this Act shall apply in relation to the enforcement of any order of the Tribunal as if such order were an order of the Court under this Act.

Explanation.—In this section, “Court” means the Court as defined in sub-clause (a) of clause (11) of section 2 and, where the powers and functions have been conferred expressly by any section on a Judge of a High Court, includes such Judge.

10B. (1) The powers and functions of the Tribunal may be exercised and discharged by Benches constituted by the chairman of the Tribunal from among the members thereof. Procedure of Tribunal.

(2) Every such Bench shall consist of such number of members, not being less than two, as the Central Government may, by rules made under this Act, determine and at least one of such members shall be a person having knowledge of, and experience in, law.

(3) If during the course of any proceedings, any member of the Tribunal is for any reason unable to perform his functions or relinquishes his membership of the Tribunal, the Central Government may appoint another member in his place in accordance with the provisions of this Act and upon his joining the Tribunal the proceedings shall be continued as if he had been on the Tribunal from the commencement of the proceedings.

(4) In case of difference of opinion among the members of a Bench, the opinion of the majority shall prevail and orders of the Bench shall be expressed in terms of the views of the majority:

Provided that if the members of the Bench are equally divided in opinion on any point, they shall prepare a statement on the point and refer the same to the chairman of the Tribunal for the hearing of such point by one or more of the other members of the Tribunal and such point shall be decided according to the opinion of the majority of the members of the Tribunal who have heard it, including those who first heard it.

(5) Subject to the provisions of this Act and the rules made thereunder, the Tribunal shall have power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the exercise of its powers and the discharge of its functions, including the places at which the Benches shall hold their sittings.

**Powers of
Tribunal.**

10C. (1) The Tribunal shall have the powers which are vested in a court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:—

(a) discovery and inspection of documents or other material objects producible as evidence,

(b) enforcing the attendance of witnesses and requiring the deposit of their expenses,

(c) compelling the production of documents or other material objects producible as evidence and impounding the same,

(d) examining witnesses on oath,

(e) granting adjournments,

(f) reception of evidence taken on affidavit,

(g) issuing commissions for the examination of witnesses, and summoning and examining *suo motu* any person whose evidence appears to the Tribunal to be material.

(2) Where the Tribunal has reason to believe that any place is used for the deposit or custody of any document or thing

which may be material for the purposes of any proceeding before it, the Tribunal may by its warrant authorise and direct any police officer not below the rank of a sub-inspector—

- (a) to enter that place with such assistance as may be required,
- (b) to search the same in the manner specified in the warrant,
- (c) to take possession of any documents or things therein found and to prepare a list of the same and to dispose them of in accordance with the provisions hereinafter contained.
- (3) When in the execution of a search warrant under sub-section (2) any documents or things for which search is made are found, such documents or things, together with the list of the same, shall immediately be taken before the Tribunal.
- (4) The provisions of the Code of Criminal Procedure, 1898, shall, so far as may be, apply to a search directed, and a search warrant issued, under sub-section (2) as they apply to a search and a search warrant under section 98 of that Code.
- (5) The Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898, and every proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and for the purpose of section 196 of that Code.

5 of 1898.

45 of 1860.

10D. (1) An appeal shall lie to the High Court having jurisdiction in relation to the place at which the registered office of the company concerned is situate, only on questions of law arising,—

Appeals
against
decisions,
etc. of the
Tribunal.

- (a) in cases against managerial personnel falling under Chapter IVA of Part VI, out of any finding of the Tribunal under section 388D; and
- (b) in cases not falling under that Chapter, out of any decision, finding or order of the Tribunal.
- (2) Every such appeal shall be heard by a Bench of not less than two Judges of the High Court.

(3) Every such appeal shall be filed within a period of sixty days from the date of communication to the appellant of the decision, finding or order of the Tribunal:

Provided that the appeal may be admitted after the expiry of the aforesaid period if the appellant satisfies the High Court that he had sufficient cause for not preferring the appeal within that period.'

Insertion of
new Part
IA after
Part I.

4. In the principal Act, after Part I, the following Part and section shall be inserted, namely:—

'PART IA

BOARD OF COMPANY LAW ADMINISTRATION

Constitution
of
Board of
Company
Law Ad-
ministra-
tion.

10E. (1) As soon as may be after the commencement of the Companies (Amendment) Act, 1963, the Central Government shall, by notification in the Official Gazette, constitute a Board to be called the Board of Company Law Administration to exercise and discharge such powers and functions conferred on the Central Government by or under this Act or any other law as may be delegated to it by that Government.

(2) The Company Law Board shall consist of such number of members, not exceeding five, as the Central Government deems fit, to be appointed by that Government by notification in the Official Gazette.

(3) One of the members shall be appointed by the Central Government to be the chairman of the Company Law Board.

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

(5) The procedure of the Company Law Board shall be such as may be prescribed.

(6) In the exercise of its powers and discharge of its functions, the Company Law Board shall be subject to the control of the Central Government'.

Amend-
ment of
section 81.

5. In section 81 of the principal Act,—

(a) for the proviso to sub-section (3), the following proviso shall be substituted, namely:—

"Provided that the terms of issue of such debentures or the terms of such loans include a term providing for such option and such term—

(a) either has been approved by the Central Government before the issue of debentures or the raising of the loans, or is in conformity with the rules, if any, made by that Government in this behalf; and

(b) in the case of debentures or loans other than debentures issued to, or loans obtained from, the Government or any institution specified by the Central Government in this behalf, has also been approved by a special resolution passed by the company in general meeting before the issue of the debentures or the raising of the loans.";

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

"(4) Notwithstanding anything contained in the foregoing provisions of this section, where any debentures have been issued to, or loans have been obtained from, the Government by a company, whether such debentures have been issued or loans have been obtained before or after the commencement of the Companies (Amendment) Act, 1963, the Central Government may, if in its opinion it is necessary in the public interest so to do, by order, direct that such debentures or loans or any part thereof shall be converted into shares in the company on such terms and conditions as appear to that Government to be reasonable in the circumstances of the case, even if the terms of issue of such debentures or the terms of such loans do not include a term providing for an option for such conversion.

(5) In determining the terms and conditions of such conversion, the Central Government shall have due regard to the following circumstances, that is to say, the financial

position of the company, the terms of issue of the debentures or the terms of the loans, as the case may be, the rate of interest payable on the debentures or the loans, the capital of the company, its loan liabilities, its reserves, its profits during the preceding five years and the current market price of the shares in the company.

(6) A copy of every order proposed to be issued by the Central Government under sub-section (4) shall be laid in draft before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions.

(7) If the terms and conditions of such conversion are not acceptable to the company, the company may, within thirty days from the date of communication to it of such order or within such further time as may be granted by the Court, prefer an appeal to the Court in regard to such terms and conditions and the decision of the Court on such appeal and, subject only to such decision, the order of the Central Government under sub-section (4) shall be final and conclusive.”.

Amend-
ment of
section 153.

6. In section 153 of the principal Act, the words “or be receivable by the Registrar” shall be omitted.

Insertion
of new
sections
after
section
153.

Appoint-
ment of
public
trustee.

Declar-
ation as to
shares and
debentures
held in
trust.

7. After section 153 of the principal Act, the following sections shall be inserted, namely:—

“153A. The Central Government may, by notification in the Official Gazette, appoint a person as public trustee to discharge the functions and to exercise the rights and powers conferred on him by or under this Act.

153B. (1) Notwithstanding anything contained in section 153, where any shares in, or debentures of, a company are held in trust by any person (hereinafter referred to as the trustee), the trustee shall, within such time and in such form as may be prescribed, make a declaration to the public trustee.

(2) A copy of the declaration made under sub-section (1) shall be sent by the trustee to the company concerned, within twenty-one days, after the declaration ^{has} been sent to the public trustee.

(3) (a) If a trustee fails to make a declaration as required by this section, he shall be punishable with fine which may extend to five thousand rupees and in the case of a continuing failure, with a further fine which may extend to one hundred rupees for every day during which the failure continues.

(b) If a trustee makes in a declaration aforesaid any statement which is false and which he knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to two years and also with fine.

(4) The provisions of this section and section 187B shall not apply in relation to a trust—

(a) where the trust is not created by instrument in writing; or

(b) even if the trust is created by instrument in writing, where the trust money invested in shares in, or debentures of, a company—

(i) does not exceed one lakh of rupees, or

(ii) exceeds one lakh of rupees but does not exceed either five lakhs of rupees or twenty-five per cent. of the paid-up share capital of the company, whichever is less.”.

8. After section 187A of the principal Act, the following section shall be inserted, namely:—

Insertion
of new sec-
tion after
section 187A.

“187B. (1) Save as otherwise provided in section 153B but notwithstanding anything contained in any other provisions of this Act or any other law or any contract, memorandum or articles, where any shares in a company are held in trust by a person (hereinafter referred to as trustee), the rights and powers (including the right to vote by proxy) exercisable at any meeting of the company or at any meeting of any class of members of the company by the trustee as a member of the company shall—

(a) cease to be exercisable by the trustee as such member, and

(b) become exercisable by the public trustee.

Exercise
of voting
rights in
respect of
shares
held in
trust.

(2) The public trustee may, instead of himself attending the meeting, and exercising the rights and powers, as aforesaid, appoint as his proxy an officer of Government or the trustee himself to attend such meeting and to exercise such rights and powers in accordance with the directions of the public trustee:

Provided that where the trustee is appointed by the public trustee as his proxy, the trustee shall be entitled, notwithstanding anything contained in any other provisions of this Act, to exercise such rights and powers in the same manner as he would have been but for the provisions of this section.

(3) The public trustee may abstain from exercising the rights and powers conferred on him by this section if in his opinion the objects of the trust or the interests of the beneficiaries of the trust are not likely to be adversely affected by such abstention.

(4) If for any reason the trustee considers that the public trustee should not abstain from exercising the rights and powers conferred on him by this section and the exercise of such rights and powers is necessary in order to safeguard the objects of the trust or the interests of the beneficiaries of the trust, he may by writing communicate his views in this behalf to the public trustee but the public trustee may in his discretion either accept such views or reject the same.

(5) No suit, prosecution or other legal proceeding shall lie against the public trustee at the instance of the trustee or any person on his behalf or any other person on the ground that the public trustee has abstained from exercising the rights and powers conferred on him by this section.

(6) In order to enable the public trustee to exercise the rights and powers aforesaid, the public trustee shall also be entitled to receive and inspect all books and papers under this Act, which a member is entitled to receive and inspect.”

9. In the principal Act, in Part VI, after Chapter IV, the following Chapter and sections shall be inserted, namely:—

“CHAPTER IVA.—POWERS OF CENTRAL GOVERNMENT TO REMOVE MANAGERIAL PERSONNEL FROM OFFICE ON THE RECOMMENDATION OF THE TRIBUNAL.

388B. (1) Where in the opinion of the Central Government there are circumstances suggesting—

- (a) that any person concerned in the conduct and management of the affairs of a company is or has been in connection therewith guilty of fraud, misfeasance, persistent negligence or default in carrying out his obligations and functions under the law, or breach of trust; or
- (b) that the business of a company is not or has not been conducted and managed by such person in accordance with sound business principles or prudent commercial practices; or
- (c) that a company is or has been conducted and managed by such person in a manner which is likely to cause, or has caused, serious injury or damage to the interest of the trade, industry or business to which such company pertains; or
- (d) that the business of a company is or has been conducted and managed by such person with intent to defraud its creditors, members or any other persons or otherwise for a fraudulent or unlawful purpose or in a manner prejudicial to public interest,

the Central Government may state a case against the person aforesaid and refer the same to the Tribunal with a request that the Tribunal may inquire into the case and record a finding as to whether or not such person is a fit and proper person to hold the office of director or any other office connected with the conduct and management of any company.

(2) Every case under sub-section (1) shall be stated in the form of an application which shall be presented to the Tribunal or such officer thereof as it may appoint in this behalf.

(3) The person against whom a case is referred to the Tribunal under this section shall be joined as a respondent to the application.

(4) Every such application—

- (a) shall contain a concise statement of such circumstances and materials as the Central Government may consider necessary for the purpose of the inquiry, and

(b) shall be signed and verified in the manner laid down in the Code of Civil Procedure, 1908, for the signature and verification of a plaint in a suit by the Central Government.

(5) The Tribunal may at any stage of the proceedings allow the Central Government to alter or amend the application in such manner and on such terms as may be just, and all such alterations or amendments shall be made as may be necessary for the purpose of determining the real questions in the inquiry.

**Interim
order by
Tribunal.**

388C. (1) Where during the pendency of a case before the Tribunal it appears necessary to the Tribunal so to do in the interest of the members or creditors of the company or in the public interest, the Tribunal may on the application of the Central Government or on its own motion, by an order—

(a) direct that the respondent shall not discharge any of the duties of his office until further orders of the Tribunal, and

(b) appoint a suitable person in place of the respondent to discharge the duties of the office held by the respondent subject to such terms and conditions as the Tribunal may specify in the order.

(2) Every person appointed under clause (b) of sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

**Findings
of the
Tribunal.**

388D. At the conclusion of the hearing of the case, the Tribunal shall record its findings stating therein specifically as to whether or not the respondent is a fit and proper person to hold the office of director or any other office connected with the conduct and management of any company.

**Power of
Central
Govern-
ment to
remove
managerial
personnel
on the
basis of
Tribunal's
findings.**

388E. (1) Notwithstanding any other provision contained in this Act, the Central Government may, by order, remove from office any director, or any other person concerned in the conduct and management of the affairs, of a company, against whom there is a finding of the Tribunal under this Chapter or a decision of a High Court thereon:

Provided that where a firm or a body corporate is concerned in the conduct and management of the affairs of a company as its managing agent or secretaries and treasurers, and the finding of the Tribunal or the decision of a High Court is against any partner in such firm, or any director of, or any person holding a general power of attorney from, such body

corporate, the Central Government may also remove from the office of managing agent or secretaries and treasurers, such firm or body corporate.

(2) No order under this section shall be made against any person unless he has been given a reasonable opportunity to show cause against the same:

Provided that no matter shall be raised by such person before the Central Government if such matter has been decided by the Tribunal or the High Court.

(3) The person against whom an order of removal from office is made under this section shall not hold the office of a director or any other office connected with the conduct and management of the affairs of any company during a period of five years from the date of the order of removal:

Provided that the Central Government may, with the previous concurrence of the Tribunal, permit such person to hold any such office before the expiry of the said period of five years.

(4) Notwithstanding anything contained in any other provision of this Act, or any other law or any contract, memorandum or articles, on the removal of a person from the office of a director or, as the case may be, any other office connected with the conduct and management of the affairs of the company, that person shall not be entitled to, or be paid, any compensation for the loss or termination of office.

(5) On the removal of a person from the office of a director or, as the case may be, any other office connected with the conduct and management of the affairs of the company, the company may, with the previous approval of the Central Government, appoint another person to that office in accordance with the provisions of this Act.”

10. In section 397 of the principal Act—

(a) in sub-section (1), for the words “are being conducted”, the words “are being conducted in a manner prejudicial to public interest or” shall be substituted;

(b) in sub-section (2), in clause (a), for the words “are being conducted”, the words “are being conducted in a manner prejudicial to public interest or” shall be substituted.

Amend-
ment of
section 397.

Amendment
of Section
398.

11. In sub-section (1) of section 398 of the principal Act—

- (a) in clause (a), for the words “are being conducted”, the words “are being conducted in a manner prejudicial to public interest or” shall be substituted;
- (b) in clause (b), for the words “will be conducted”, the words “will be conducted in a manner prejudicial to public interest or” shall be substituted.

Amendment
of section
408.

12. In sub-section (1) of section 408—

- (a) after the words “if the Central Government”, the words “of its own motion or” shall be inserted;
- (b) after the words “interests of the company”, the words “or to public interest” shall be inserted.

Insertion
of new
section
after
section 635.

13. After section 635 of the principal Act, the following section shall be inserted, namely:—

Protection
of acts
done in
good faith.

“635A. No suit, prosecution or other legal proceeding shall lie against officers of Government for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.”

Amend-
ment of
section
637.

14. For sub-sections (1) and (2) of section 637 of the principal Act, the following sub-sections shall be substituted, namely:—

“(1) The Central Government may, by notification in the Official Gazette and subject to such conditions, restrictions and limitations as may be specified therein, delegate—

(a) any of its powers or functions under this Act (other than the power to appoint a person as public trustee under section 153A and the power to make rules) to the Company Law Board;

(b) any of its powers or functions under this Act, other than those specified in sub-section (2), to such other authority or such officer as may be specified in the notification.

(2) The powers and functions which cannot be delegated under clause (b) of sub-section (1) are those conferred by or mentioned in the following provisions of this Act, namely, sections 10, 81, 89(4), 211(3) and (4), 212, 213, 235,

237, 239, 241, 242, 243, 244, 245, 247, 248, 249, 250, 259, 268, 269, 274(2), 295, 300, 310, 311, 324, 326, 328, 329, 332, 343, 345, 346, 347 (2), 349, 352, 369, 372, 396, 399 (4) and (5), 401, 408, 409, 410, 411 (b), 448, 609, 613, 620, 638, 641 and 642.

(2A) The provisions of this Act shall apply in relation to the Company Law Board as they apply in relation to the Central Government in respect of any matter in relation to which the powers and functions of the Central Government have been delegated to the Company Law Board.”

THE CENTRAL BOARDS OF REVENUE ACT, 1963

No. 54 OF 1963

[30th December, 1963]

An Act to provide for the constitution of separate Boards of Revenue for Direct Taxes and for Excise and Customs and to amend certain enactments for the purpose of conferring powers and imposing duties on the said Boards.

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

Short title
and com-
mencement.

1. (1) This Act may be called the Central Boards of Revenue Act, 1963.

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

Definitions.

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

(a) "Board" means the Central Board of Direct Taxes or the Central Board of Excise and Customs constituted under section 3;

(b) "Central Board of Revenue" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924; ^{4 of 1924.}

(c) "direct tax" means—

(1) any duty leviable or tax chargeable under—

- | | |
|---|------------------------|
| (i) the Estate Duty Act, 1953; | ^{34 of 1953.} |
| (ii) the Wealth-tax Act, 1957; | ^{27 of 1957.} |
| (iii) the Expenditure-tax Act, 1957; | ^{29 of 1957.} |
| (iv) the Gift-tax Act, 1958; | ^{18 of 1958.} |
| (v) the Income-tax Act, 1961; | ^{43 of 1961.} |
| (vi) the Super Profits Tax Act, 1963; and | ^{14 of 1963.} |

¹11-1-1964; vide Notification No. S.O. 3606, dated 30-12-1963, Gazette of India, Extraordinary Pt. II, Sec. 3(ii), p. 897.

(2) any other duty or tax which, having regard to its nature or incidence, may be declared by the Central Government, by notification in the Official Gazette, to be a direct tax.

3. (1) The Central Government shall, in place of the Central Board of Revenue, constitute two separate Boards of Revenue to be called the Central Board of Direct Taxes and the Central Board of Excise and Customs, and each such Board shall, subject to the control of the Central Government, exercise such powers and perform such duties, as may be entrusted to that Board by the Central Government or by or under any law.

(2) Each Board shall consist of such number of persons not exceeding five as the Central Government may think fit to appoint.

4. (1) The Central Government may make rules for the purpose of regulating the transaction of business by each Board and every order made or act done in accordance with such rules shall be deemed to be the order or act, as the case may be, of the Board.

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

34 of 1953.

27 of 1957.

29 of 1957.

18 of 1958.

43 of 1961.

14 of 1963.

4 of 1924.

5. (1) In the Estate Duty Act, 1953, the Wealth-tax Act, 1957, the Expenditure-tax Act, 1957, the Gift-tax Act, 1958, the Income-tax Act, 1961 and the Super Profits Tax Act, 1963, for the words and figures "Central Board of Revenue constituted under the Central Board of Revenue Act, 1924" or "Central Board of Revenue", wherever they occur, the words and figures "Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963" shall be substituted.

Amendment of certain enactments.

1 of 1944.

52 of 1962.

4 of 1924.

(2) In the Central Excises and Salt Act, 1944, and the Customs Act, 1962, for the words and figures "Central Board of Revenue constituted under the Central Board of Revenue Act, 1924" or "Central Board of Revenue" wherever they occur, the words and figures "Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963" shall be substituted.

Constitution of separate Central Boards for Direct Taxes and for Excise and Customs.

Procedure of the Board.

(3) The functions entrusted to the Central Board of Revenue by or under any other enactment shall,—

(a) if such functions relate to matters connected with direct taxes, be discharged by the Central Board of Direct Taxes; and

(b) if such functions relate to any other matter, unless they are entrusted by the Central Government to the Central Board of Direct Taxes, be discharged by the Central Board of Excise and Customs.

Transfer of certain proceedings.

6. (1) Every proceeding pending at the commencement of this Act, before the Central Board of Revenue shall—

(a) if it is a proceeding relating to direct taxes, stand transferred to the Central Board of Direct Taxes; and

(b) in any other case, stand transferred to the Central Board of Excise and Customs.

(2) If any question arises as to whether any proceeding stands transferred to the Central Board of Direct Taxes or to the Central Board of Excise and Customs, it shall be referred to the Central Government whose decision thereon shall be final.

(3) In any legal proceeding pending at the commencement of this Act to which the Central Board of Revenue is a party,—

(a) if it is a proceeding relating to direct taxes, the Central Board of Direct Taxes shall be deemed to be substituted for the Central Board of Revenue in such proceeding; and

(b) if it is a proceeding relating to any other matter, the Central Board of Excise and Customs shall be deemed to be substituted for the Central Board of Revenue in such proceeding.

Power to remove difficulties.

7. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the purposes of this Act, as appear to it to be necessary or expedient for removing the difficulty.

(2) An order under sub-section (1) may be made so as to have retrospective effect from a date not earlier than the date of the commencement of this Act.

8. (1) The Central Board of Revenue Act, 1924, is hereby repealed.

Repeal and saving.

(2) Nothing contained in sub-section (1) shall affect any appointment, assessment, order (including quasi-judicial order) or rule made, or exemption, approval or recognition granted, or any notice, notification, direction or instruction issued, or any duty levied, or penalty or fine imposed, or confiscation adjudged, or any form prescribed, or any other thing done or action taken by the Central Board of Revenue under any law and any such appointment, assessment, order, rule, exemption, approval, recognition, notice, notification, direction, instruction, duty, penalty, fine, confiscation, form, thing or action shall be deemed to have been made, granted, issued, levied, imposed, adjudged, prescribed, done or taken by the Central Board of Direct Taxes, or as the case may be, by the Central Board of Excise and Customs and shall continue to be in force unless and until it is revised, withdrawn or superseded by the concerned Board.

Rep. by Act 56 of 1974, S. 2 & Sch I

THE BANKING LAWS (MISCELLANEOUS PROVISIONS)
ACT, 1963

No. 55 OF 1963

[30th December, 1963]

An Act further to amend the Reserve Bank of India Act, 1934, the Banking Companies Act, 1949 and the State Bank of India (Subsidiary Banks) Act, 1959.

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

CHAPTER I

Short title
and com-
mencement.

1. (1) This Act may be called the Banking Laws (Miscellaneous Provisions) Act, 1963.

(2) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act.

CHAPTER II

AMENDMENT OF THE RESERVE BANK OF INDIA ACT, 1934

Amend-
ment of
section 34.

2. In section 34 of the Reserve Bank of India Act, 1934 (hereinafter in this Chapter referred to as the principal Act), sub-section (2) shall be omitted.

Omission
of section
36.

3. Section 36 of the principal Act shall be omitted.

Amendment
of section 38.

4. In section 38 of the principal Act, the words and figures "to re-issue any rupee coin delivered under section 36 nor" and the words "or by delivery to the Central Government under that section" shall be omitted.

¹ 1-2-1964; vide Notification No. S.O. 343, dated 21-1-1964, Gazette of India, Pt. II, Sec. 3(ii), p. 361.

5. After Chapter IIIA of the principal Act, the following Chapter and sections shall be inserted, namely:—

Insertion
of new
Chapter
after
Chapter
III A.

"CHAPTER IIIB"

PROVISIONS RELATING TO NON-BANKING INSTITUTIONS RECEIVING DEPOSITS AND FINANCIAL INSTITUTIONS

10 of 1949.

45H. The provisions of this Chapter shall not apply to the State Bank or a banking company as defined in section 5 of the Banking Companies Act, 1949 or a banking institution notified under section 51 of that Act:

Chapter
IIIB not
to apply
in certain
cases.

Provided that for the purposes of this Chapter, the Madras Industrial Investment Corporation Limited shall not be deemed to be a banking company.

45I. In this Chapter, unless the context otherwise requires,—

Definitions.

1 of 1956.

(a) "company" means a company as defined in section 3 of the Companies Act, 1956 and includes a foreign company within the meaning of section 591 of that Act;

(b) "corporation" means a corporation incorporated by an Act of any legislature;

(c) "financial institution" means any non-banking institution—

(i) which carries on as its business or part of its business the financing, whether by way of making loans or advances or otherwise, of trade, industry, commerce or agriculture; or

(ii) which carries on as its business or part of its business the acquisition of shares, stock, bonds, debentures or debenture stock or securities issued by a Government or local authority or other marketable securities of a like nature; or

(iii) which carries on as its principal business hire-purchase transactions or the financing of such transactions;

(d) "firm" means a firm as defined in the Indian Partnership Act, 1932, of which the capital subscribed by its partners exceeds one lakh of rupees;

9 of 1932.

(e) "non-banking institution" means a company, corporation, or firm.

Bank to regulate or prohibit issue of prospectus or advertisement soliciting deposits of money.

45J. The Bank may, if it considers necessary in the public interest so to do, by general or special order,—

(a) regulate or prohibit the issue by any non-banking institution of any prospectus or advertisement soliciting deposits of money from the public; and

(b) specify the conditions subject to which any such prospectus or advertisement, if not prohibited, may be issued.

Power of Bank to collect information from non-banking institutions as to deposits and to give directions.

45K. (1) The Bank may at any time direct that every non-banking institution shall furnish to the Bank, in such form, at such intervals and within such time, such statements, information or particulars relating to or connected with deposits received by the non-banking institution, as may be specified by the Bank by general or special order.

(2) Without prejudice to the generality of the power vested in the Bank under sub-section (1), the statements, information or particulars to be furnished under sub-section (1) may relate to all or any of the following matters, namely, the amount of the deposits, the purposes and periods for which, and the rates of interest and other terms and conditions on which, they are received.

(3) The Bank may, if it considers necessary in the public interest so to do, give directions to non-banking institutions either generally or to any non-banking institution or group of non-banking institutions in particular, in respect of any matters relating to or connected with the receipt of deposits, including the rates of interest payable on such deposits, and the periods for which deposits may be received.

(4) If any non-banking institution fails to comply with any direction given by the Bank under sub-section (3), the Bank may prohibit the acceptance of deposits by that non-banking institution.

(5) If any question arises whether any amount borrowed or proposed to be borrowed by a non-banking institution is or is not a deposit, it shall be referred to the Bank whose decision thereon shall be final.

(6) Every non-banking institution receiving deposits shall, if so required by the Bank and within such time as the Bank may specify, cause to be sent at the cost of the non-banking institution a copy of its annual balance-sheet and profit and loss account or other annual accounts to every person from whom the non-banking institution holds, as on the last day of the year to which the accounts relate, deposits higher than such sum as may be specified by the Bank.

45L. (1) If the Bank is satisfied that for the purpose of enabling it to regulate the credit system of the country to its advantage it is necessary so to do, it may—

(a) require financial institutions either generally or any group of financial institutions or financial institution in particular, to furnish to the Bank in such form, at such intervals and within such time, such statements, information or particulars relating to the business of such financial institutions or institution, as may be specified by the Bank by general or special order;

(b) give to such institutions either generally or to any such institution in particular, directions relating to the conduct of business by them or by it as financial institutions or institution.

(2) Without prejudice to the generality of the power vested in the Bank under clause (a) of sub-section (1), the statements, information or particulars to be furnished by a financial institution may relate to all or any of the following matters, namely, the paid-up capital, reserves or other liabilities, the investments whether in Government securities or otherwise, the persons to whom, and the purposes and periods for which, finance is provided and the terms and conditions, including the rates of interest, on which it is provided.

(3) In issuing directions to any financial institution under clause (b) of sub-section (1), the Bank shall have due regard to the conditions in which, and the objects for which, the institution has been established, its statutory responsibilities, if any, and the effect the business of such financial institution is likely to have on trends in the money and capital markets.

Power of
Bank to
call for
information from
Financial
institutions
and to
give direc-
tions.

Duty of
non-banking
institutions
to furnish
statements,
etc., requir-
ed by Bank.

45M. It shall be the duty of every non-banking institution to furnish the statements, information or particulars called for, and to comply with any direction given to it, under the provisions of this Chapter.

Inspection.

45N. (1) The Bank may, at any time, for the purpose of verifying the correctness or completeness of any statement, information or particulars furnished to it by a non-banking institution or for the purpose of obtaining any information or particulars which a non-banking institution has failed to furnish on its being called upon to do so, cause an inspection to be made by one or more of its officers or employees or other persons (hereinafter in this section referred to as the inspecting authority), of any such institution and its books and accounts.

(2) It shall be the duty of every director or member of any committee or other body for the time being vested with the management of the affairs of the non-banking institution or other officer or employee thereof to produce to the inspecting authority all such books, accounts and other documents in his custody or power and to furnish that authority with any statements and information relating to the business of the institution as that authority may require of him, within such time as may be specified by that authority.

(3) The inspecting authority may examine on oath any director or member of any committee or body for the time being vested with the management of the affairs of the non-banking institution or other officer or employee thereof, in relation to its business and may administer an oath accordingly.

Penalties.

45O. (1) Whoever in any return, statement or information required or furnished by or under or for the purposes of any provision of this Chapter, 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, or with fine, or with both.

(2) If any person fails to produce any book, account or other document or to furnish any statement, information or particulars, which under this Chapter it is his duty to produce or furnish, or to answer any question relating to the business of a

non-banking institution which he is asked by the inspecting authority under this Chapter, he shall be punishable with fine which may extend to two thousand rupees in respect of each offence, and, if he persists in such refusal, with a further fine which may extend to one hundred rupees for every day during which the offence continues.

(3) If any non-banking institution—

(a) receives any deposits in contravention of any direction given to it under this Chapter; or

(b) issues any prospectus or advertisement otherwise than in accordance with any order made under section 45J; or

(c) fails to comply with the provisions of sub-section (6) of section 45K or with the directions issued under sub-section (3) of that section or clause (b) of sub-section (1) of section 45L,

every director or member of any committee or other body for the time being vested with the management of the affairs of the non-banking institution, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent it, shall be punishable with fine which may extend—

(a) in the case of a contravention falling under clause (a), to twice the amount of the deposits received;

(b) in the case of a contravention falling under clause (b), to twice the amount of the deposits called for by the prospectus or advertisement; and

(c) in any other case, to two thousand rupees.

45P. No court shall take cognisance of any offence punishable under section 45O except upon a complaint in writing made by an officer of the Bank, generally or specially authorised in writing in this behalf by the Bank, and no court inferior to that of a presidency magistrate or a magistrate of the first class shall try any such offence.

Cognisance of offence.

45Q. The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.”

Chapter IIIB to override other laws.

CHAPTER III

AMENDMENT OF THE BANKING COMPANIES ACT, 1949

Amend-
ment of
section 5.

6. In section 5 of the Banking Companies Act, 1949 (hereinafter ^{10 of 1949.} in this Chapter referred to as the principal Act), for the brackets, figure and words "(1) In this Act", the words "In this Act" shall be substituted.

Substitu-
tion of new
section for
section 7.

7. For section 7 of the principal Act, the following section shall be substituted, namely:—

Use of
words
"bank",
"Lanker",
"banking",
or "bank-
ing com-
pany".

"7. (1) No company other than a banking company shall use as part of its name any of the words 'bank', 'banker' or 'banking' and no company shall carry on the business of banking in India unless it uses as part of its name at least one of such words.

(2) No firm, individual or group of individuals shall, for the purpose of carrying on any business, use as part of its or his name any of the words 'bank', 'banking' or 'banking company'.

(3) Nothing in this section shall apply to—

(a) a subsidiary of a banking company formed for one or more of the purposes mentioned in sub-section (1) of section 19, whose name indicates that it is a subsidiary of that banking company;

(b) any association of banks formed for the protection of their mutual interests and registered under section 25 of the Companies Act, 1956.".

^{1 of 1956.}

Amend-
ment of
section 10.

8. In section 10 of the principal Act,

(a) in sub-section (1), in sub-clause (iii) of clause (c)—

(i) for the words "who has a contract with the company for its management", the words "whose term of office as a person managing the company is" shall be substituted;

(ii) for the first proviso, the following provisos shall be substituted, namely:—

"Provided that the term of office of any such person may be renewed or extended by further periods not exceeding five years on each occasion subject to the condition that such renewal or extension shall not be sanctioned earlier than two years from the date on which it is to come into force:

Provided also that where the term of office of such person is for an indefinite period, such term, unless it otherwise comes to an end earlier, shall come to an end immediately on the expiry of five years from the date of his appointment or on the expiry of three months from the date of commencement of section 8 of the Banking Laws (Miscellaneous Provisions) Act, 1963, whichever is later.”;

(b) sub-sections (3), (4) and (5) shall be omitted.

9. In section 12 of the principal Act, in sub-section (2), for the words “in excess of five per cent.”, the words “in excess of one per cent.” shall be substituted. Amendment of section 12.

10. In section 18 of the principal Act, in clause (b) of the *Explanation*, the brackets and word “(Private)” shall be omitted. Amendment of section 18.

1 of 1956.

11. In section 20 of the principal Act,

(a) for sub-section (1), the following sub-section shall be substituted, namely:— Amendment of section 20.

“(1) Notwithstanding anything to the contrary contained in section 77 of the Companies Act, 1956, no banking company shall—

(a) make any loans or advances on the security of its own shares; or

(b) grant unsecured loans or advances—

(i) to any of its directors; or

(ii) to firms or private companies in which any of its directors is interested as partner or managing agent or guarantor or to individuals in cases where any of its directors is a guarantor; or

(iii) to any company in which the chairman of the board of directors of the banking company (where the appointment of a chairman is for a fixed term) is interested as chairman or managing director of the company if such company has no managing agent or as the managing agent or director or partner of the managing agent of such company:

Provided that nothing in clause (b) shall apply to the grant of unsecured loans or advances made by the banking company—

(i) against bills for supplies or services made or rendered to Government or bills of exchange arising out of bona fide commercial or trade transactions, or

(ii) in respect whereof trust-receipts are furnished to the banking company.”;

(b) in sub-section (2), for the words “granted by it to companies in which it or”, the words, brackets and figure “granted by it to companies in cases (other than those in which the banking company is prohibited under sub-section (1) to make unsecured loans and advances) in which” shall be substituted.

Insertion
of new
section
after sec-
tion 20.

Restric-
tions on
power to
remit debts.

12. After section 20 of the principal Act, the following section shall be inserted, namely:—

“20A. (1) Notwithstanding anything to the contrary contained in section 293 of the Companies Act, 1956, a banking company shall not, except with the prior approval of the Reserve Bank, remit in whole or in part any debt due to it by—

(a) any of its directors, or

(b) any firm or company in which any of its directors is interested as director, partner, managing agent or guarantor, or

(c) any individual if any of its directors is his partner or guarantor.

(2) Any remission made in contravention of the provisions of sub-section (1) shall be void and of no effect.”

Amend-
ment of
section 21.

13. In section 21 of the principal Act,—

(a) in sub-section (1), after the words “public interest”, the words “or in the interests of depositors” shall be inserted;

(b) in sub-section (2), for the words beginning with “as to the purposes” and ending with “directions as so given.”, the following shall be substituted, namely:—

“as to—

(a) the purposes for which advances may or may not be made,

(b) the margins to be maintained in respect of secured advances,

(c) the maximum amount of advances or other financial accommodation which, having regard to the paid-up capital, reserves and deposits of a banking company and other relevant considerations, may be made by that banking company to any one company, firm, association of persons or individual,

(d) the maximum amount up to which, having regard to the considerations referred to in clause (c), guarantees may be given by a banking company on behalf of any one company, firm, association of persons or individual, and

(e) the rate of interest and other terms and conditions on which advances or other financial accommodation may be made or guarantees may be given.”;

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Every banking company shall be bound to comply with any directions given to it under this section.”

14. In section 26 of the principal Act, the words “giving particulars of the deposits standing to the credit of each such account” shall be omitted.

Amendment of section 26.

15. In section 30 of the principal Act, in clause (d) of sub-section (3), for the words “of profit and loss”, the words “of profit or loss” shall be substituted.

Amendment of section 30.

16. In section 34A of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

Amendment of section 34A.

“(3) For the purposes of this section, “banking company” includes the Reserve Bank, the State Bank of India and any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959.”

38 of 1959.

17. In section 35 of the principal Act, in sub-section (2) and in sub-section (3), after the words “director or other officer”, the words “or employee” shall be inserted.

Amendment of section 35.

Insertion
of new
Part after
Part II.

18. After Part II of the principal Act, the following Part and sections shall be inserted, namely:—

"PART IIA

CONTROL OVER MANAGEMENT

Power of
Reserve
Bank to
remove
managerial
and other
persons
from office.

36AA. (1) Where the Reserve Bank is satisfied that in the public interest or for preventing the affairs of a banking company being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of any banking company it is necessary so to do, the Reserve Bank may, for reasons to be recorded in writing, by order, remove from office, with effect from such date as may be specified in the order, any director, chief executive officer (by whatever name called) or other officer or employee of the banking company.

(2) No order under sub-section (1) shall be made unless the director or chief executive officer or other officer or employee concerned has been given a reasonable opportunity of making a representation to the Reserve Bank against the proposed order:

Provided that if, in the opinion of the Reserve Bank, any delay would be detrimental to the interests of the banking company or its depositors, the Reserve Bank may, at the time of giving the opportunity aforesaid or at any time thereafter, by order direct that, pending the consideration of the representation aforesaid, if any, the director or, as the case may be, chief executive officer or other officer or employee, shall not, with effect from the date of such order—

(a) act as such director or chief executive officer or other officer or employee of the banking company;

(b) in any way, whether directly or indirectly, be concerned with, or take part in the management of, the banking company.

(3) (a) Any person against whom an order of removal has been made under sub-section (1) may, within thirty days from the date of communication to him of the order, prefer an appeal to the Central Government.

(b) The decision of the Central Government on such appeal, and subject thereto, the order made by the Reserve Bank under sub-section (1), shall be final and shall not be called into question in any court.

(4) Where any order is made in respect of a director or chief executive officer or other officer or employee of a banking company under sub-section (1), he shall cease to be a director or, as the case may be, chief executive officer or other officer or employee of the banking company and shall not, in any way, whether directly or indirectly, be concerned with, or take part in the management of, any banking company for such period not exceeding five years as may be specified in the order.

(5) If any person in respect of whom an order is made by the Reserve Bank under sub-section (1) or under the proviso to sub-section (2) contravenes the provisions of this section, he shall be punishable with fine which may extend to two hundred and fifty rupees for each day during which such contravention continues.

(6) Where an order under sub-section (1) has been made, the Reserve Bank, may, by order in writing, appoint a suitable person in place of the director or chief executive officer or other officer or employee who has been removed from his office under that sub-section, with effect from such date as may be specified in the order.

(7) Any person appointed as director or chief executive officer or other officer or employee under this section, shall—

(a) hold office during the pleasure of the Reserve Bank and subject thereto for a period not exceeding three years or such further periods not exceeding three years at a time as the Reserve Bank may specify;

(b) not incur any obligation or liability by reason only of his being a director or chief executive officer or other officer or employee or for anything done or omitted to be done in good faith in the execution of the duties of his office or in relation thereto.

(8) Notwithstanding anything contained in any law or in any contract, memorandum or articles of association, on the removal of a person from office under this section, that person shall not be entitled to claim any compensation for the loss or termination of office.

36AB. (1) If the Reserve Bank is of opinion that in the interests of the banking company or its depositors it is necessary so to do, it may, from time to time by order in writing, appoint, with effect from such date as may be specified in the order, one or more persons to hold office as additional directors of the banking company.

Power of
Reserve
Bank to
appoint
additional
directors.

Provided that the number of additional directors so appointed shall not at any time exceed five or one-third of the maximum strength fixed for the Board by the articles, whichever is less.

(2) Any person appointed as additional director in pursuance of this section—

(a) shall hold office during the pleasure of the Reserve Bank and subject thereto for a period not exceeding three years or such further periods not exceeding three years at a time as the Reserve Bank may specify;

(b) shall 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 execution of the duties of his office or in relation thereto; and

(c) shall not be required to hold qualification-shares in the banking company.

(3) For the purpose of reckoning any proportion of the total number of directors of the banking company, any additional director appointed under this section shall not be taken into account.

Part IIA
to over-
ride other
laws.

36AC. Any appointment or removal of a director, chief executive officer or other officer or employee in pursuance of section 36AA or section 36AB shall have effect notwithstanding anything to the contrary contained in the Companies Act, 1956, or any other law for the time being in force or in any contract or any other instrument".

Amendment
of section
44A.

19. In section 44A of the principal Act,—

(a) sub-section (5) shall be omitted;

(b) in sub-section (6), for the words "the terms of the order sanctioning the scheme", the words "the provisions of the scheme as sanctioned" shall be substituted;

(c) after sub-section (6), the following sub-sections shall be inserted, namely:—

"(6A) Where a scheme of amalgamation is sanctioned by the Reserve Bank under the provisions of this section, the Reserve Bank may, by a further order in writing, direct that on such date as may be specified therein, the banking company (hereinafter in this section referred to as the amalgamated banking company) which by reason of the

amalgamation will cease to function, shall stand dissolved and any such direction shall take effect notwithstanding anything to the contrary contained in any other law.

(6B) Where the Reserve Bank directs a dissolution of the amalgamated banking company, it shall transmit a copy of the order directing such dissolution to the Registrar before whom the banking company has been registered and on receipt of such order the Registrar shall strike off the name of the company.

(6C) An order under sub-section (4) whether made before or after the commencement of section 19 of the Banking Laws (Miscellaneous Provisions) Act, 1963 shall be conclusive evidence that all the requirements of this section relating to amalgamation have been complied with, and a copy of the said order certified in writing by an officer of the Reserve Bank to be a true copy of such order and a copy of the scheme certified in the like manner to be a true copy thereof shall, in all legal proceedings (whether in appeal or otherwise and whether instituted before or after the commencement of the said section 19), be admitted as evidence to the same extent as the original order and the original scheme.”.

20. In section 44B of the principal Act, in sub-section (1), for the words “unless the compromise or arrangement”, the words “or sanction any modification in any such compromise or arrangement unless the compromise or arrangement or modification, as the case may be”, shall be substituted.

Amendment of section 44B.

21. In section 45 of the principal Act, after sub-section (7), the following sub-section shall be inserted, namely:—

Amendment of section 45.

“(7A) The sanction accorded by the Central Government under sub-section (7), whether before or after the commencement of section 21 of the Banking Laws (Miscellaneous Provisions) Act, 1963, shall be conclusive evidence that all the requirements of this section relating to reconstruction, or, as the case may be, amalgamation have been complied with and a copy of the sanctioned scheme certified in writing by an officer of the Central Government to be a true copy thereof, shall, in all legal proceedings (whether in appeal or otherwise and whether instituted before or after the commencement of the said section 21), be admitted as evidence to the same extent as the original scheme.”.

Amend-
ment of
section
45F.

22. In section 45F of the principal Act,—

(i) in sub-section (1), for the words "proceedings by or against the banking company", the words "legal proceedings" shall be substituted;

(ii) in sub-section (2)—

(a) after the word "directors", the words "officers and other employees" shall be inserted, and

(b) the words, brackets and figures "before the commencement of the Banking Companies (Amendment) Act, 1953" shall be omitted.

Amend-
ment of
section
45S.

23. In section 45S of the principal Act,—

(a) in sub-section (1)—

(i) the words "which has been ordered to be wound up" shall be omitted;

(ii) for the words beginning with "take possession of such property" and ending with "special officer", the following shall be substituted, namely:—

"(a) take possession of such property, books of accounts or other documents, and

(b) forward them to the official liquidator or the special officer";

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

"(2) Where any such property and effects are in the possession of the Chief Presidency Magistrate or the District Magistrate, as the case may be, such Magistrate shall, on request in writing being made to him by the official liquidator or the special officer referred to in sub-section (1), sell such property and effects and forward the net proceeds of the sale to the official liquidator or the special officer:

Provided that such sale shall, as far as practicable, be effected by public auction.

(3) 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.

(4) No act of the Chief Presidency Magistrate or the District Magistrate done in pursuance of this section shall be called in question in any court or before any authority.”.

24. In section 45T of the principal Act,—

Amend.
ment of
section
45T.

(a) in sub-section (3), for the words “in the same manner as an arrear of land revenue”, the following shall be substituted, namely:—

“by the liquidator in the same manner as an arrear of land revenue and for the purpose of such recovery the liquidator may forward to the Collector within whose jurisdiction the property of the person against whom any order or decision of the High Court has been made is situate, a certificate under his signature specifying the amount so due and the person by whom it is payable”;

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

“(4) On receipt of a certificate under sub-section (3), the Collector shall proceed to recover from such person the amount specified therein as if it were an arrear of land revenue:

Provided that without prejudice to any other powers of the Collector, he shall, for the purposes of recovering the said amount, have all the powers, which, under the Code of Civil Procedure, 1908, a civil court has for the purpose of the recovery of an amount due under a decree.”.

5 of 1908.

25. In section 46 of the principal Act, for sub-section (4), the following sub-sections shall be substituted, namely:—

Amend.
ment of
section 46.

“(4) If any other provision of this Act is contravened or if any default is made in complying with any requirement of this Act or of any order, rule or direction made or condition imposed thereunder, any person guilty of such contravention or default shall be punishable with fine which may extend to two thousand rupees, and where a contravention or default is a continuing one, with a further fine which may extend to one hundred rupees for every day during which the contravention or default continues.

(5) Where a contravention or default has been committed by a company, every person who, at the time the contravention or default was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention or default and shall be liable to be proceeded against and punished accordingly:

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

(6) Notwithstanding anything contained in sub-section (5), where a contravention or default has been committed by a company, and it is proved that the same was committed with the consent or connivance of, or is attributable to any gross negligence on the part of, any director, manager, secretary or other officer of the Company, such director, manager, secretary or other officer shall also be deemed to be guilty of that contravention or default and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

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

**Amend-
ment of
section 47.** 26. In section 47 of the principal Act, after the words "punishable under", the words, brackets, figures and letters "sub-section (5) of section 36AA or" shall be inserted.

**Amend-
ment of
section 49.** 27. In section 49 of the principal Act, for the figures "384", the figures and letter "388A" shall be substituted.

**Amend-
ment of
section 49A.** 28. In section 49A of the principal Act, for the words "banking institution notified by the Central Government in this behalf", the words "banking institution, firm or other person notified by the Central Government in this behalf on the recommendation of the Reserve Bank" shall be substituted.

**Amend-
ment of
section 53.** 29. In section 53 of the principal Act, after the words "any banking company", the words "or institution" shall be inserted.

CHAPTER IV

AMENDMENT OF THE STATE BANK OF INDIA (SUBSIDIARY BANKS) ACT,
1959

30. In section 19 of the State Bank of India (Subsidiary Banks) Amendment of
Act, 1959, in sub-section (2), for the words "in excess of five per cent", section 19
the words "in excess of one per cent" shall be substituted.

THE DELHI DEVELOPMENT (AMENDMENT) ACT, 1963

No. 56 OF 1963

[30th December, 1963]

An Act to amend the Delhi Development Act, 1957.

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

Short title. 1. This Act may be called the Delhi Development (Amendment) Act, 1963.

Amendment of section 2. 2. In section 2 of the Delhi Development Act, 1957 (hereinafter referred to as the principal Act), for clause (l), the following clause shall be, and shall be deemed always to have been, substituted, namely:—

‘(l) the expression “land” shall have the meaning assigned to it in section 3 of the Land Acquisition Act, 1894.’

1 of 1894.

Amend-
ment of
section 3. 3. In section 3 of the principal Act,—

(a) in sub-section (3), for clause (g), the following clause shall be substituted, namely:—

“(g) three other persons to be nominated by the Central Government, of whom one shall be a person with experience of town planning or architecture; and”;

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

“(3A) The appointment of the vice-chairman may be either whole-time or part-time as the Central Government may think fit but the appointment of the finance and accounts member and the engineer member shall be whole-time.”

(c) for sub-sections (4) and (5), the following sub-sections shall be substituted, namely:

"(4) The vice-chairman, if he is a whole-time member, the finance and accounts member and the engineer member shall be entitled to receive from the funds of the Authority such salaries and such allowances, if any, and governed by such conditions of service as may be determined by rules made in this behalf.

(5) The vice-chairman, if he is a part-time member, and other members specified in clause (e), clause (f) and clause (g) of sub-section (3) may be paid from the funds of the Authority such allowances, if any, as may be fixed by the Central Government in this behalf.";

(d) in sub-section (6), for the words "two members", the words "three members" shall be substituted and for the words "two representatives", the words "three representatives" shall be substituted.

4. In section 5 of the principal Act, in sub-section (1), for the words "the zonal development plans and generally on the planning of development of Delhi and on such other matters", the words "on such other matters relating to the planning of development, or" shall be substituted.

Amend-
ment of
section 5.

5. After section 5 of the principal Act, the following section shall be inserted, namely:

Insertion
of new
section 5A.

"5A. (1) The Authority may constitute as many committees consisting wholly of members or wholly of other persons or partly of members and partly of other persons and for such purpose or purposes as it may think fit.

Constitu-
tion of
committees.

(2) A committee constituted under this section shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be determined by regulations made in this behalf.

(3) The members of a committee (other than the members of the Authority) shall be paid such fees and allowances for attending its meetings and for attending to any other work of the Authority, as may be determined by regulations made in this behalf."

6. In section 7 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:

Amend-
ment of
section 7.

"(3) The master plan may provide for any other matter which is necessary for the proper development of Delhi."

Insertion
of new
Chapter
IIIA.

7. After Chapter III, the following Chapter shall be inserted,
namely:—

"CHAPTER IIIA

MODIFICATIONS TO THE MASTER PLAN AND THE ZONAL DEVELOPMENT PLAN

Modifica-
tions to
plan.

11A. (1) The Authority may make any modifications to the master plan or the zonal development plan as it thinks fit, being modifications which, in its opinion, do not effect important alterations in the character of the plan and which do not relate to the extent of land-uses or the standards of population density.

(2) The Central Government may make any modifications to the master plan or the zonal development plan whether such modifications are of the nature specified in sub-section (1) or otherwise.

(3) Before making any modifications to the plan, the Authority or, as the case may be, the Central Government shall publish a notice in such form and manner as may be prescribed by rules made in this behalf inviting objections and suggestions from any person with respect to the proposed modifications before such date as may be specified in the notice and shall consider all objections and suggestions that may be received by the Authority or the Central Government.

(4) Every modification made under the provisions of this section shall be published in such manner as the Authority or the Central Government, as the case may be, may specify and the modifications shall come into operation either on the date of the publication or on such other date as the Authority or the Central Government may fix.

(5) When the Authority makes any modifications to the plan under sub-section (1), it shall report to the Central Government the full particulars of such modifications within thirty days of the date on which such modifications come into operation.

(6) If any question arises whether the modifications proposed to be made by the Authority are modifications which effect important alterations in the character of the plan or whether they relate to the extent of land-uses or the standards of population density, it shall be referred to the Central Government whose decision thereon shall be final.

(7) Any reference in any other Chapter, except Chapter III, to the master plan or the zonal development plan shall be construed as a reference to the master plan or the zonal development plan as modified under the provisions of this section.”.

8. In section 12 of the principal Act,—

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

“(1) As soon as may be after the commencement of this Act, the Central Government may, by notification in the Official Gazette, declare any area in Delhi to be a development area for the purposes of this Act:

Provided that no such declaration shall be made unless a proposal for such declaration has been referred by the Central Government to the Authority and the Municipal Corporation of Delhi for expressing their views thereon within thirty days from the date of the receipt of the reference or within such further period as the Central Government may allow and the period so specified or allowed has expired.”;

(b) in the proviso to sub-section (3), after the word “may”, the words, figures and letter “subject to the provisions of section 53A” shall be inserted.

9. For section 15 of the principal Act, the following section shall be, and shall be deemed always to have been, substituted, namely:—

Substitution of new section for section 15.

“15. (1) If in the opinion of the Central Government, any land is required for the purpose of development, or for any other purpose, under this Act, the Central Government may acquire such land under the provisions of the Land Acquisition Act, 1894.

(2) Where any land has been acquired by the Central Government, that Government may, after it has taken possession of the land, transfer the land to the Authority or any local authority for the purpose for which the land has been acquired on payment by the Authority or the local authority of the compensation awarded under that Act and of the charges incurred by the Government in connection with the acquisition.”.

Omission
of sections
16 to 20.

10. Sections 16 to 20 of the principal Act shall be, and shall be deemed always to have been, omitted.

Insertion
of new
section 22A.

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

Power of
Authority
to develop
land in
non-devel-
opment
area.

“22A. Notwithstanding anything contained in sub-section (2) of section 12, the Authority may, if it is of opinion that it is expedient to do so, undertake or carry out any development of any land which has been transferred to it or placed at its disposal under section 15 or section 22 even if such land is situate in any area which is not a development area.”.

Amend-
ment of
section 23.

12. In section 23 of the principal Act,—

(a) in sub-section (1), after clause (a), the following clause shall be inserted, namely:—

“(aa) all moneys borrowed by the Authority from sources other than the Central Government by way of loans or debentures;”;

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

“(5) The Authority may borrow money by way of loans or debentures from such sources (other than the Central Government) and on such terms and conditions as may be approved by the Central Government.

(6) The Authority shall maintain a sinking fund for the repayment of moneys borrowed under sub-section (5), and shall pay every year into the sinking fund such sum as may be sufficient for repayment within the period fixed of all moneys so borrowed.

(7) The sinking fund or any part thereof shall be applied in, or towards, the discharge of the loan for which such fund was created, and until such loan is wholly discharged it shall not be applied for any other purpose.”.

Amend-
ment of
section 29.

13. In section 29 of the principal Act, in sub-section (2), the following shall be inserted at the end, namely:—

“and in the case of a continuing offence, with further fine which may extend to two hundred and fifty rupees for every day during which such offence continues after conviction for the first commission of the offence”.

14. In section 30 of the principal Act,—

Amend-
ment of
section 30.

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

“(1) Where any development has been commenced or is being carried on or has been completed in contravention of the master plan or zonal development plan or without the permission, approval or sanction referred to in section 12 or in contravention of any conditions subject to which such permission, approval or sanction has been granted,—

(i) in relation to a development area, any officer of the Authority empowered by it in this behalf,

(ii) in relation to any other area within the local limits of a local authority, the competent authority thereof,

may, in addition to any prosecution that may be instituted under this Act, make an order, directing that such development shall be removed by demolition, filling or otherwise by the owner thereof or by the person at whose instance the development has been commenced or is being carried out or has been completed, within such period (not being less than five days and more than fifteen days from the date on which a copy of the order of removal, with a brief statement of the reasons therefor, has been delivered to the owner or that person) as may be specified in the order and on his failure to comply with the order, the officer of the Authority or, as the case may be, the competent authority may remove or cause to be removed the development and the expenses of such removal shall be recovered from the owner or the person at whose instance the development was commenced or was being carried out or was completed as arrears of land revenue:

Provided that no such order shall be made unless the owner or the person concerned has been given a reasonable opportunity to show cause why the order should not be made.

(1A) If any development in an area other than a development area has been commenced or is being carried on or has been completed in contravention of the master plan or zonal development plan or without the approval or sanction referred to in section 12 or in contravention of any conditions subject to which such approval or sanction has been granted and the competent authority has failed to remove

or cause to be removed the development within the time that may be specified in this behalf by the Administrator of the Union territory of Delhi, the Administrator may, after observing such procedure as may be prescribed by rules made in this behalf, direct any officer to remove or cause to be removed such development and that officer shall be bound to carry out such direction and any expenses of such removal may be recovered from the owner or the person at whose instance the development was commenced or was being carried out or was completed as arrears of land revenue.”;

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Any person aggrieved by the direction of the Administrator under sub-section (1A) may appeal to the Central Government within thirty days from the date thereof, and the Central Government may after giving an opportunity of hearing to the person aggrieved, either allow or dismiss the appeal or may reverse or vary any part of the direction.”;

(iii) for sub-section (3), the following sub-sections shall be substituted, namely:—

“(3) The decision of the chairman or the Central Government on the appeal and subject only to such decision the order under sub-section (1) or, as the case may be, the direction under sub-section (1A), shall be final and shall not be questioned in any court.

(4) The provisions of this section shall be in addition to, and not in derogation of, any other provision relating to demolition of buildings contained in any other law for the time being in force.”.

Substitution of new section for section 31.

15. For section 31 of the principal Act, the following section shall be substituted, namely:—

Power to stop development.

“31. (1) Where any development in any area has been commenced in contravention of the master plan or zonal development plan or without the permission, approval or sanction referred to in section 12 or in contravention of any conditions subject to which such permission, approval or sanction has been granted,—

(i) in relation to a development area, the Authority or any officer of the Authority empowered by it in this behalf,

(ii) in relation to any other area within the local limits of a local authority, the competent authority thereof, may, in addition to any prosecution that may be instituted under this Act, make an order requiring the development to be discontinued on and from the date of the service of the order, and such order shall be complied with accordingly.

(2) Where such development is not discontinued in pursuance of the order under sub-section (1), the Authority or the officer of the Authority or the competent authority, as the case may be, may require any police officer to remove the person by whom the development has been commenced and all his assistants and workmen from the place of development within such time as may be specified in the requisition and such police officer shall comply with the requisition accordingly.

(3) If any development in an area other than a development area has been commenced in contravention of the master plan or zonal development plan or without the approval or sanction referred to in section 12 or in contravention of any conditions subject to which such approval or sanction has been granted and the competent authority has failed to make an order under sub-section (1) or, as the case may be, a requisition under sub-section (2), within the time that may be specified in this behalf by the Administrator of the Union territory of Delhi, the Administrator may, after observing such procedure as may be prescribed by rules made in this behalf, direct any officer to make the order or requisition, as the case may be, and that officer shall be bound to carry out such direction and the order or requisition made by him in pursuance of the direction shall be complied with accordingly.

(4) After the requisition under sub-section (2) or sub-section (3) has been complied with, the Authority or the competent authority or the officer to whom the direction was issued by the Administrator under sub-section (3), as the case may be, may depute by a written order a police officer or an officer or employee of the Authority or local authority concerned to watch the place in order to ensure that the development is not continued.

(5) Any person failing to comply with an order under sub-section (1) or, as the case may be, under sub-section (3), shall be punishable with fine which may extend to two hundred rupees for every day during which the non-compliance continues after the service of the order.

(6) No compensation shall be claimable by any person for any damage which he may sustain in consequence of the removal of any development under section 30 or the discontinuance of the development under this section.

(7) In section 30 and in this section, "competent authority" in relation to a local authority means any authority or officer of that local authority empowered or authorised to order demolition or stoppage of buildings or works, in accordance with the provisions made by or under the law governing such local authority.

(8) The provisions of this section shall be in addition to, and not in derogation of, any other provision relating to stoppage of building operations contained in any other law for the time being in force.”.

Amend-
ment of
section 34.

16. In section 34 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Any offence made punishable by or under this Act may, either before or after the institution of proceedings, be compounded—

(i) in the case of an offence referred to in sub-section (2) of section 49, by the Administrator of the Union territory of Delhi or any officer authorised by him in this behalf by general or special order; and

(ii) in any other case, by the Authority or, as the case may be, the local authority concerned or any person authorised by the Authority or such local authority by general or special order in this behalf.”.

Substitu-
tion of
new sec-
tion for
section 35.

17. For section 35 of the principal Act, the following section shall be substituted, namely:—

Default
powers
of the
Authority.

“35. (1) If the Authority, after holding a local enquiry or upon report from any of its officers or other information in its possession, is satisfied that any amenity in relation to any land in a development area has not been provided in relation to that land which in the opinion of the Authority is to be provided, or that any development of the land for which permission, approval or sanction has been obtained under this Act has not

been carried out, it may, after affording a reasonable opportunity to show cause, serve upon the owner of the land or upon the person providing or responsible for providing the amenity a notice requiring him to provide the amenity or carry out the development within such time as may be specified in the notice.

(2) If any amenity is not provided or any such development is not carried out within the time specified in the notice, then the Authority may itself provide the amenity or carry out the development or have it provided or carried out through such agency as it deems fit:

Provided that before taking any action under this subsection, the Authority shall afford reasonable opportunity to the owner of the land or to the person providing or responsible for providing the amenity to show cause as to why such action should not be taken.

(3) All expenses incurred by the Authority or the agency employed by it in providing the amenity or carrying out the development together with interest at such rate as the Central Government may by order fix from the date when a demand for the expenses is made until payment may be recovered by the Authority from the owner or the person providing or responsible for providing the amenity as arrears of land revenue.”.

18. For section 37 of the principal Act, the following section shall be substituted, namely:—

“37. (1) Where, in the opinion of the Authority, as a consequence of any development having been executed by the Authority in any development area, the value of any property in that area or in any area other than the development area, which has been benefited by the development, has increased or will increase, the Authority shall be entitled to levy upon the owner of the property or any person having an interest therein a betterment charge in respect of the increase in value of the property resulting from the execution of the development:

Provided that no betterment charge shall be levied in respect of lands owned by Government within Delhi:

Provided further that where any land belonging to Government has been let out by Government to any person, then that land and any building situate thereon shall be subject to a betterment charge under this section.

Substitution of new section for section 37.

Power of Authority to levy betterment charges.

(2) Such betterment charge shall be an amount—

(i) in respect of any property situate in a development area, equal to one-third of the amount, and

(ii) in respect of property situate in any other area, not exceeding one-third of the amount,

by which the value of the property on the completion of the execution of the development scheme estimated as if the property were clear of buildings exceeds the value of the property prior to such execution estimated in like manner:

Provided that in levying betterment charge on any property under clause (ii), the Authority shall have regard to the extent and nature of benefit accruing to the property from the development and such other factors as may be prescribed by rules made in this behalf.”.

**Amend-
ment of
section 39.** 19. In section 39 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) The arbitrators shall, for the purpose of determining any matter referred to them, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 ^{5 of 1908.} when trying a suit, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) administering to any party to the arbitration such interrogatories as may, in the opinion of the arbitrators, be necessary.”.

**Insertion
of new
section 40A.** 20. After section 40 of the principal Act, the following section shall be inserted, namely:—

**Mode of
recovery
of money
due to
Authority.**

“40A. Any money due to the Authority on account of fees or charges, or from the disposal of lands, buildings or other properties, movable or immovable, or by way of rents and profits may, if the recovery thereof is not expressly provided for in any other provision of this Act, be recovered by the Authority as arrears of land revenue.”.

21. In section 41 of the principal Act, after sub-section (2), the Amendment of section 41.

"(3) The Central Government may, at any time, either on its own motion or on application made to it in this behalf, call for the records of any case disposed of or order passed by the Authority for the purpose of satisfying itself as to the legality or propriety of any order passed or direction issued and may pass such order or issue such direction in relation thereto as it may think fit:

Provided that the Central Government shall not pass an order prejudicial to any person without affording such person a reasonable opportunity of being heard."

22. For section 42 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 42.

"**42.** (1) The Authority shall furnish to the Central Government such reports, returns and other information as that Government may from time to time require.

Returns and inspection.

(2) Without prejudice to the provisions of sub-section (1), the Central Government or any officer authorised by the Central Government in this behalf, may call for reports, returns and other information from the Authority or local authority in regard to the implementation of the master plan.

(3) Any person authorised by the Central Government or the officer referred to in sub-section (2) may enter into or upon any land with or without assistants or workmen for ascertaining whether the provisions of the master plan are being or have been implemented, or whether the development is being or has been carried out in accordance with such plan.

(4) No such entry shall be made except between the hours of sunrise and sunset and without giving reasonable notice to the occupier, or if there be no occupier, to the owner of the land or building".

23. Section 49 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

Amendment of section 49.

(a) in sub-section (1) as so re-numbered, after the words "under this Act", the words, brackets and figure "other than an offence referred to in sub-section (2)" shall be inserted;

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) No prosecution for any offence for failure to comply with the order of the officer referred to in sub-section (3) of section 31 and punishable under sub-section (5) of that section shall be instituted except with the previous sanction of the Administrator or any officer authorised by him in this behalf.”.

Amend-
ment of
section 52.

24. Section 52 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

(a) in sub-section (1) as so re-numbered, after the words “local authority”, the words, figure and letter “or committee constituted under section 5A” shall be inserted;

(b) after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

“(2) The Central Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act, except the power to make rules, may also be exercised by such officer as may be mentioned therein, in such cases and subject to such conditions, if any, as may be specified therein.

(3) The Administrator of the Union territory of Delhi may, by notification in the Official Gazette, direct that any power exercisable by him under this Act may also be exercised by such officer as may be mentioned therein, in such cases and subject to such conditions, if any, as may be specified therein.”.

Amend-
ment of
section 53.

25. In section 53 of the principal Act, in sub-section (2), for the words “Save as aforesaid”, the following shall be substituted, namely:—

“Save as otherwise provided in sub-section (4) of section 30 or sub-section (8) of section 31 or sub-section (1) of this section”.

Insertion
of new sec-
tions 53A
and 53B.

26. After section 53 of the principal Act, the following sections shall be inserted, namely:—

Restriction
on power
of a local
authority
to make
rules.

“53A. (1) Notwithstanding anything contained in any law for the time being in force, no rule, regulation or bye-law shall be made or amended by a local authority in respect of matters specified in sub-section (2) unless the Authority, upon consider-

ration of such rule, regulation or bye-law, certifies that it does not contravene any of the provisions of the master plan or the zonal development plan.

regulations
or bye-laws
in respect
of certain
matters.

(2) The matters referred to in sub-section (1) are the following, namely:—

- (a) water supply, drainage and sewage disposal;
- (b) erection and re-erection of buildings, including grant of building permissions, licences and imposition of restrictions on use and sub-division of buildings;
- (c) sub-division of land into building sites, roads and lanes, recreational sites and sites for community facilities; and
- (d) development of land, improvement schemes, and housing and re-housing schemes.

53B. (1) No suit shall be instituted against the Authority, or any member thereof, or any of its officers or other employees, or any person acting under the directions of the Authority or any member or any officer or other employee of the Authority in respect of any act done or purporting to have been done in pursuance of this Act or any rule or regulation made thereunder until the expiration of two months after notice in writing has been, in the case of the Authority, left at its office, and in any other case, delivered to, or left at the office or place of abode of the person to be sued and unless such notice states explicitly the cause of action, the nature of relief sought, the amount of compensation claimed and the name and place of residence of the intending plaintiff and unless the plaint contains a statement that such notice has been so left or delivered.

Notice to
be given
of suits.

(2) No suit such as is described in sub-section (1) shall, unless it is a suit for recovery of immovable property or for a declaration of title thereto, be instituted after the expiry of six months from the date on which the cause of action arises.

(3) Nothing contained in sub-section (1) shall be deemed to apply to a suit in which the only relief claimed is an injunction of which the object would be defeated by the giving of the notice or the postponement of the institution of the suit.”

27. In section 55 of the principal Act,—

Amend-
ment of
section 55.

(i) in sub-section (1),—

(a) the words “under the provisions of this Act or, as the case may be, of any other law relating to acquisition of

immovable property, by the authority for the time being charged with the development of the area in which the land is situated" shall be, and shall be deemed always to have been, omitted;

(b) for the words "serve on the authority a notice", the words "serve on the Central Government a notice" shall be substituted;

(ii) in sub-section (2), for the words "If the authority for the time being charged with the development of the area", the words "If the Central Government" shall be substituted.

Amend-
ment of
section 56

28. In section 56 of the principal Act, in sub-section (2),—

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

"(dd) the stages by which the development of any particular features of a zone may be carried out;"

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

"(g) the form and manner in which notice under sub-section (3) of section 11A shall be published;"

(c) clause (i) shall be, and shall be deemed always to have been, omitted;

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

"(jj) the procedure to be observed by the Administrator under section 30 or section 31;

(jjj) the factors to be taken into consideration in determining the rate of betterment charge in respect of property situate in any area outside the development area;"

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

"(mm) the procedure to be followed for borrowing moneys by way of loans or debentures and their repayment;"

29. In section 57 of the principal Act, in sub-section (1),—

Amend-
ment of
section 57.

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

“(aa) the summoning and holding of meetings of a committee constituted under section 5A, the time and place where such meetings are to be held, the conduct of business at such meetings and the number of members necessary to form a quorum thereat and the fees and allowances payable to the members for attending the meetings or any other work of the Authority;”;

(b) clause (g) shall be, and shall be deemed always to have been, omitted.

30. If any acquisition of land has been made under the provisions of the Land Acquisition Act, 1894 for any purposes of the principal Act or any notification has been issued or order has been made or any proceeding has been instituted or any action has been taken in connection with acquisition of any land for such purpose, such acquisition, notification, order, proceeding or action shall not be deemed to be invalid merely on the ground that it was made, issued, instituted or taken under the said provisions.

Validation
of certain
acquisi-
tions.

THE CONSTITUTION (FIFTEENTH AMENDMENT)
ACT, 1963

[5th October, 1963]

An Act further to amend the Constitution of India.

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

short title. 1. This Act may be called the Constitution (Fifteenth Amendment) Act, 1963.

Amendment of article 124. 2. In article 124 of the Constitution, after clause (2), the following clause shall be inserted, namely:—

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

Amendment of article 128. 3. In article 128 of the Constitution, after the words “Federal Court”, the words “or who has held the office of a Judge of a High Court and is duly qualified for appointment as a Judge of the Supreme Court” shall be inserted.

4. In article 217 of the Constitution,—

(a) in clause (1), for the words “sixty years”, the words “sixty-two years” shall be substituted;

(b) after clause (2), the following clause shall be inserted and shall be deemed always to have been inserted, namely:—

“(3) If any question arises as to the age of a Judge of a High Court, the question shall be decided by the President after consultation with the Chief Justice of India and the decision of the President shall be final.”.

Amendment of article 222. 5. In article 222 of the Constitution, after clause (1), the following clause shall be inserted, namely:—

“(2) When a Judge has been or is so transferred, he shall, during the period he serves, after the commencement of the Constitution (Fifteenth Amendment) Act, 1963, as a Judge of the other High Court, be entitled to receive in addition to his salary such compensatory allowance as may be determined by Parliament by law and, until so determined, such compensatory allowance as the President may by order fix.”.

6. In article 224 of the Constitution, in clause (3), for the words "sixty years", the words "sixty-two years" shall be substituted. Amendment of article 224.

7. After article 224 of the Constitution, the following article shall be inserted, namely:— Insertion of new article 224A.

"224A. Notwithstanding anything in this Chapter, the Chief Justice of a High Court for any State may at any time, with the previous consent of the President, request any person who has held the office of a Judge of that Court or of any other High Court to sit and act as a Judge of the High Court for that State, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that High Court:

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

8. In article 226 of the Constitution,— Amendment of article 226.

(a) after clause (1), the following clause shall be inserted, namely:—

"(1A) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.”;

(b) in clause (2), for the word, brackets and figure "clause (1)", the words, brackets, figures and letter "clause (1) or clause (1A)" shall be substituted.

9. In article 297 of the Constitution, after the words "territorial waters", the words "or the continental shelf" shall be inserted. Amendment of article 297.

10. In article 311 of the Constitution, for clauses (2) and (3), the following clauses shall be substituted, namely:— Amendment of article 311.

"(2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges and where it is proposed, after such inquiry, to impose

on him any such penalty, until he has been given a reasonable opportunity of making representation on the penalty proposed, but only on the basis of the evidence adduced during such inquiry:

Provided that this clause shall not apply—

(a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or

(b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or

(c) where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to hold such inquiry.

(3) If, in respect of any such person as aforesaid, a question arises whether it is reasonably practicable to hold such inquiry as is referred to in clause (2), the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank shall be final.”

Amendment of article 316. 11. In article 316 of the Constitution, after clause (1), the following clause shall be inserted, namely:—

“(1A) If the office of the Chairman of the Commission becomes vacant or if any such Chairman is by reason of absence or for any other reason unable to perform the duties of his office, those duties shall, until some person appointed under clause (1) to the vacant office has entered on the duties thereof or, as the case may be, until the Chairman has resumed his duties, be performed by such one of the other members of the Commission as the President, in the case of the Union Commission or a Joint Commission, and the Governor of the State in the case of a State Commission, may appoint for the purpose.”

Amendment of the Seventh Schedule.

12. In the Seventh Schedule to the Constitution, in List I, in entry 78, after the word “organisation”, the brackets and words “(including vacations)” shall be inserted and shall be deemed always to have been inserted.

THE CONSTITUTION (SIXTEENTH AMENDMENT)

ACT, 1963

[5th October, 1963]

An Act further to amend the Constitution of India.

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

1. This Act may be called the Constitution (Sixteenth Amendment) Act, 1963. Short title.

2. In article 19 of the Constitution,—

Amend-
ment of
article 19.

(a) in clause (2), after the words "in the interests of", the words "the sovereignty and integrity of India," shall be inserted;

(b) in clauses (3) and (4), after the words "in the interests of", the words "the sovereignty and integrity of India or" shall be inserted.

3. In article 84 of the Constitution, for clause (a), the following clause shall be substituted, namely:— Amend-
ment of
article 84.

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

4. In article 173 of the Constitution, for clause (a), the following clause shall be substituted, namely:— Amend-
ment of
article 173.

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

5. In the Third Schedule to the Constitution,—

Amend-
ment of
Third
Schedule.

(a) in Form I, after the words "Constitution of India as by law established", the words "that I will uphold the sovereignty and integrity of India," shall be inserted;

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

III

A

Form of oath or affirmation to be made by a candidate for election to Parliament:—

“I, A.B., having been nominated as a candidate to fill a seat in the Council of States (or the House of the People) do swear in the name of God that I will bear true solemnly affirm faith and allegiance to the Constitution of India as by law established and that I will uphold the sovereignty and integrity of India.”

B

Form of oath or affirmation to be made by a member of Parliament:—

“I, A.B., having been elected (or nominated) a member of the Council of States (or the House of the People) do swear in the name of God that I will bear true solemnly affirm faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter.”;

(c) in Forms IV, V and VIII, after the words “the Constitution of India as by law established,” the words “that I will uphold the sovereignty and integrity of India,” shall be inserted;

(d) for Form VII, the following shall be substituted, namely:—

VII

A

Form of oath or affirmation to be made by a candidate for election to the Legislature of a State:—

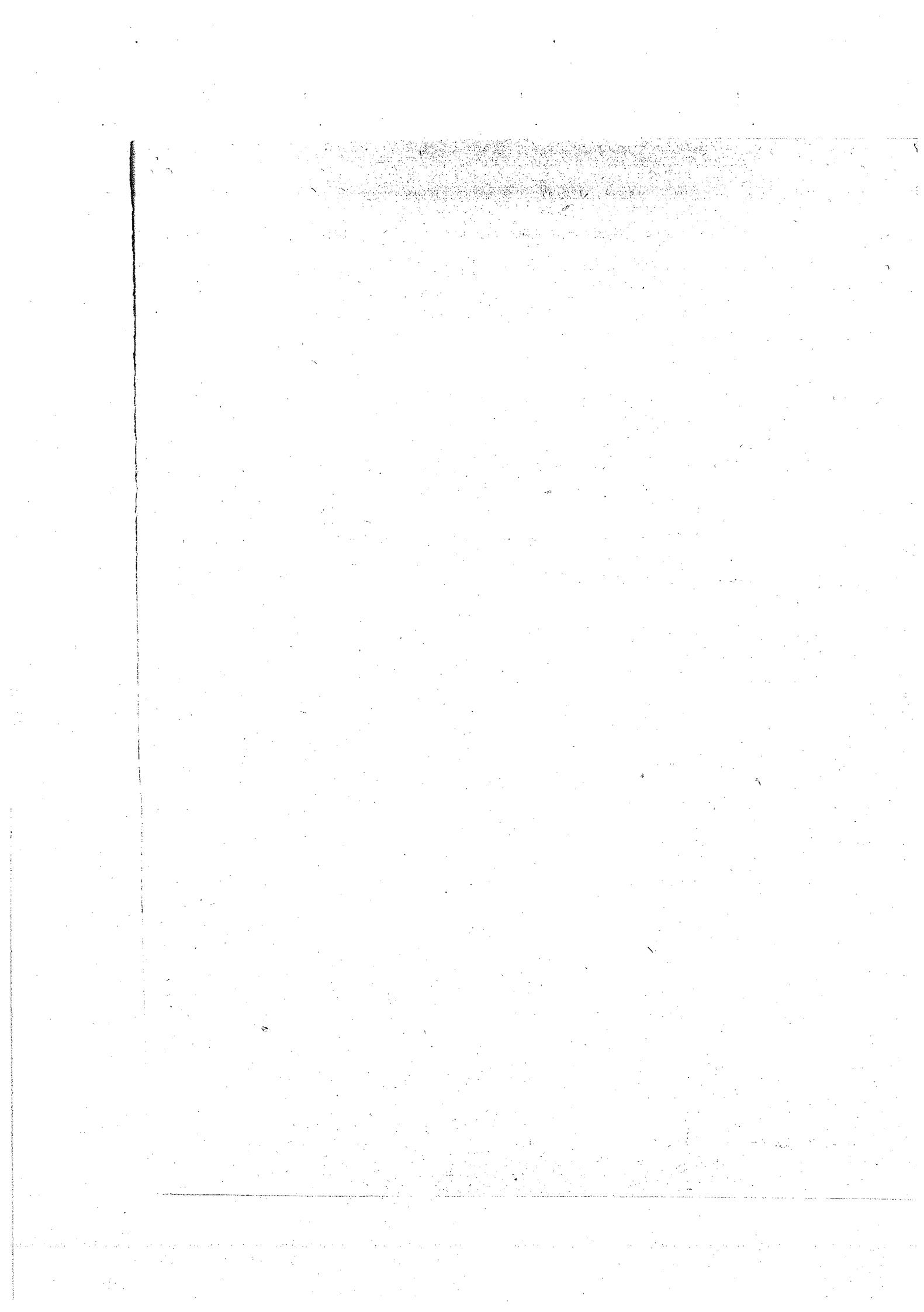
“I, A.B., having been nominated as a candidate to fill a seat in the Legislative Assembly (or Legislative Council),

do swear in the name of God ^{solemnly affirm} that I will bear true faith and allegiance to the Constitution of India as by law established and that I will uphold the sovereignty and integrity of India".

B

Form of oath or affirmation to be made by a member of the Legislature of a State:—

"I, A.B., having been elected (or nominated) a member of the Legislative Assembly (or Legislative Council), do swear in the name of God ^{solemnly affirm} that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter."



INDEX

Page No.

A

ACQUISITION

Requisitioning and —— of Immovable Property (Amendment) Act. 426

ADMINISTRATORS-GENERAL

—— Act 378

ADVERTISEMENTS

Drugs and Magic Remedies (Objectionable ——) Amendment Act 369

AGRICULTURAL REFINANCE CORPORATION

—— Act 30

ALL-INDIA SERVICES

—— (Amendment) Act 224

APPROPRIATION

—— Act 16

—— (No. 2) Act 88

—— (No. 3) Act 157

—— (No. 4) Act 221

—— (No. 5) Act 376

—— (Railways) Act 12

—— (Railways) No. 2 Act 14

—— (Railways) No. 3 Act 153

—— (Railways) No. 4 Act 155

—— (Railways) No. 5 Act 237

—— (Railways) No. 6 Act 402

—— (Vote on Account) Act 21

AYURVEDIC AND UNANI PRACTITIONERS

East Punjab —— (Delhi Amendment) Act 427

B

BANKING LAWS

—— (Miscellaneous Provisions) Act 476

BENGAL FINANCE

—— (Sales Tax) (Delhi Amendment) Act 152

BOARDS OF REVENUE

Central —— Act 472

Page No.

C

CENTRAL BOARDS OF REVENUE	
— Act	472
CENTRAL EXCISES	
Customs and —— (Amendment) Act	236
CENTRAL SALES TAX	
—— (Amendment) Act	20
CESS	
Iron Ore Mines Labour Welfare —— (Amendment) Act	220
CIVIL PROCEDURE	
Code of —— (Amendment) Act	223
CODE OF CIVIL PROCEDURE	
—— (Amendment) Act	223
COMMITTEE	
Textiles —— Act	359
COMPANIES	
—— (Amendment) Act	457
COMPENSATION INSURANCE	
Personal Injuries (—) Act	275
COMPULSORY DEPOSIT	
—— Scheme Act	197
CONSTITUTION	
—— (Fifteenth Amendment) Act	510
—— (Sixteenth Amendment) Act	513
CONTROL	
Delhi Rent —— (Amendment) Act	11
Export (Quality —— and Inspection) Act	206
CORPORATION	
Agricultural Refinance —— Act	30
CORPORATIONS	
Warehousing —— (Amendment) Act	242
CUSTOMS	
—— and Central Excises (Amendment) Act	236

Index

D	Page No.
DELHI	
Bengal Finance (Sales Tax) (— Amendment) Act	152
— Development (Amendment) Act	494
Dramatic Performances (—Repeal) Act	243
East Punjab Ayurvedic and Unani Practitioners (—Amendment) Act	427
— Rent Control (Amendment) Act	11
DEPOSIT	
Compulsory — Scheme Act	197
DETENTION	
Preventive — (Continuance) Act	433
DEVELOPMENT	
Delhi — (Amendment) Act	494
DRAMATIC PERFORMANCES	
— (Delhi Repeal) Act	243
DRUGS	
— and Magic Remedies (Objectionable Advertisement) Amendment Act	369
E	
EAST PUNJAB	
— Ayurvedic and Unani Practitioners (Delhi Amendment) Act	427
EMIGRATION	
Indian — (Amendment) Act	215
EMPLOYEES' PROVIDENT FUNDS	
— (Amendment) Act	225
EMPLOYMENT	
Industrial — (Standing Orders) Amendment Act	352
EVICTION	
Public Premises (—of Unauthorised Occupants) Amendment Act	355
EXCISES	
Customs and Central — (Amendment) Act	236
EXPORT	
— (Quality Control and Inspection) Act	206

Index

Page No.

	Page No.
F	
FINANCE	
— Act	99
Bengal — (Sales Tax) (Delhi Amendment) Act	152
FUNDS	
Employees' Provident — (Amendment) Act	225
G	
GOODS	
Indian Sale of — (Amendment) Act	240
GOVERNMENT OF UNION TERRITORIES	
— Act	162
H	
HINDI SAHITYA	
— Sammelan (Amendment) Act	1
I	
IMMOVABLE PROPERTY	
Requisitioning and Acquisition of — (Amendment) Act	426
INCOME-TAX	
— (Amendment) Act	375
INDUSTRIAL EMPLOYMENT	
— (Standing Orders) Amendment Act	392
INJURIES	
Personal — (Compensation Insurance) Act	275
INSPECTION	
Export (Quality Control and —) Act	206
INSTITUTES OF TECHNOLOGY	
— (Amendment) Act	234
INSURANCE	
Marine — Act	55
Personal Injuries (Compensation —) Act	275
IRON ORE	
— Mines Labour Welfare Cess (Amendment) Act	220

Page No.

L

LABOUR WELFARE

Iron Ore Mines — Cess (Amendment) Act 220

LANGUAGES

Official — Act 159

LAWS

Banking — (Miscellaneous Provisions) Act 476

LIMITATION

— Act 244

M

MAGIC REMEDIES

Drugs and — (Objectionable Advertisements) Amendment Act 369

MAJOR PORT

— Trusts Act 292

MARINE INSURANCE

— Act 55

MARRIAGE

Special — (Amendment) Act 239

MINES

Iron Ore — Labour Welfare Cess (Amendment) Act. 220

O

OBJECTIONABLE ADVERTISEMENTS

Drugs and Magic Remedies (—) Amendment Act 369

OFFICIAL LANGUAGES

— Act 159

ORDERS

Industrial Employment (Standing —) Amendment Act 352

ORE

Iron — Mines Labour Welfare Cess (Amendment) Act 220

P

PERFORMANCES

Dramatic —— (Delhi Repeal) Act

24

PERSONAL INJURIES

—— (Compensation Insurance) Act

27

PORT

Major —— Trusts Act

29

PRACTITIONERS

East Punjab Ayurvedic and Unani —— (Delhi Amendment) Act

41

PREVENTIVE DETENTION

—— (Continuance) Act

41

PROFITS

Super —— Tax Act

I

PROPERTY

Requisitioning and Acquisition of Immovable —— (Amendment) Act

41

PROVIDENT FUNDS

Employees' —— (Amendment) Act

22

PUBLIC PREMISES

—— (Eviction of Unauthorised Occupants) Amendment Act

3

Q

QUALITY CONTROL

Export —— and Inspection) Act

2

R

RAILWAYS

Appropriation (—) Act

I

Appropriation (—) No. 2 Act

I

Appropriation (—) No. 3 Act

I

Appropriation (—) No. 4 Act

I

Appropriation (—) No. 5 Act

2

Appropriation (—) No. 6 Act

4

REFINANCE CORPORATION

Agricultural —— Act

I

RELIEF

Specific —— Act

4

REMEDIES

Drugs and Magic —— (Objectionable Advertisements) Amendment Act

369

RENT CONTROL

Delhi —— (Amendment) Act

II

REPRESENTATION OF THE PEOPLE

—— (Amendment) Act

2

REQUISITIONING

—— and Acquisition of Immovable Property (Amendment) Act

426

REVENUE

Central Boards of —— Act

472

S

SAHITYA

Hindi —— Sammelan (Amendment) Act

I

SALE OF GOODS

Indian —— (Amendment) Act

240

SALES TAX

Bengal Finance (—) (Delhi Amendment) Act

152

Central —— (Amendment) Act

20

SCHEME

Compulsory Deposit —— Act

197

SERVICES

All-India —— (Amendment) Act

224

SPECIAL MARRIAGE

—— (Amendment) Act

239

SPECIFIC RELIEF

—— Act

404

STANDING ORDERS

Industrial Employment (—) Amendment Act

352

SUPER PROFITS

—— Tax Act

132

T

TARIFF

Indian —— (Amendment) Act

4

Indian —— (Second Amendment) Act

429

TAX

- Bengal Finance (Sales ——) (Delhi Amendment) Act 152
 Central Sales —— (Amendment) Act 20
 Super Profits —— Act 132

TECHNOLOGY

- Institutes of —— (Amendment) Act 234

TEXTILES

- Committee Act 359

TRUST

- Unit —— of India Act 434

TRUSTS

- Major Port —— Act 292

U**UNANI PRACTITIONERS**

- East Punjab Ayurvedic and —— (Delhi Amendment) Act 427

UNAUTHORISED OCCUPANTS

- Public Premises (Eviction of ——) Amendment Act 355

UNION TERRITORIES

- Government of —— Act 162

UNIT TRUST

- of India Act 434

V**VOTE ON ACCOUNT**

- Appropriation (—) Act 21

W**WAREHOUSING CORPORATIONS**

- (Amendment) Act 242

WELFARE

- Iron Ore Mines Labour —— Cess (Amendment) Act 220

