

1962

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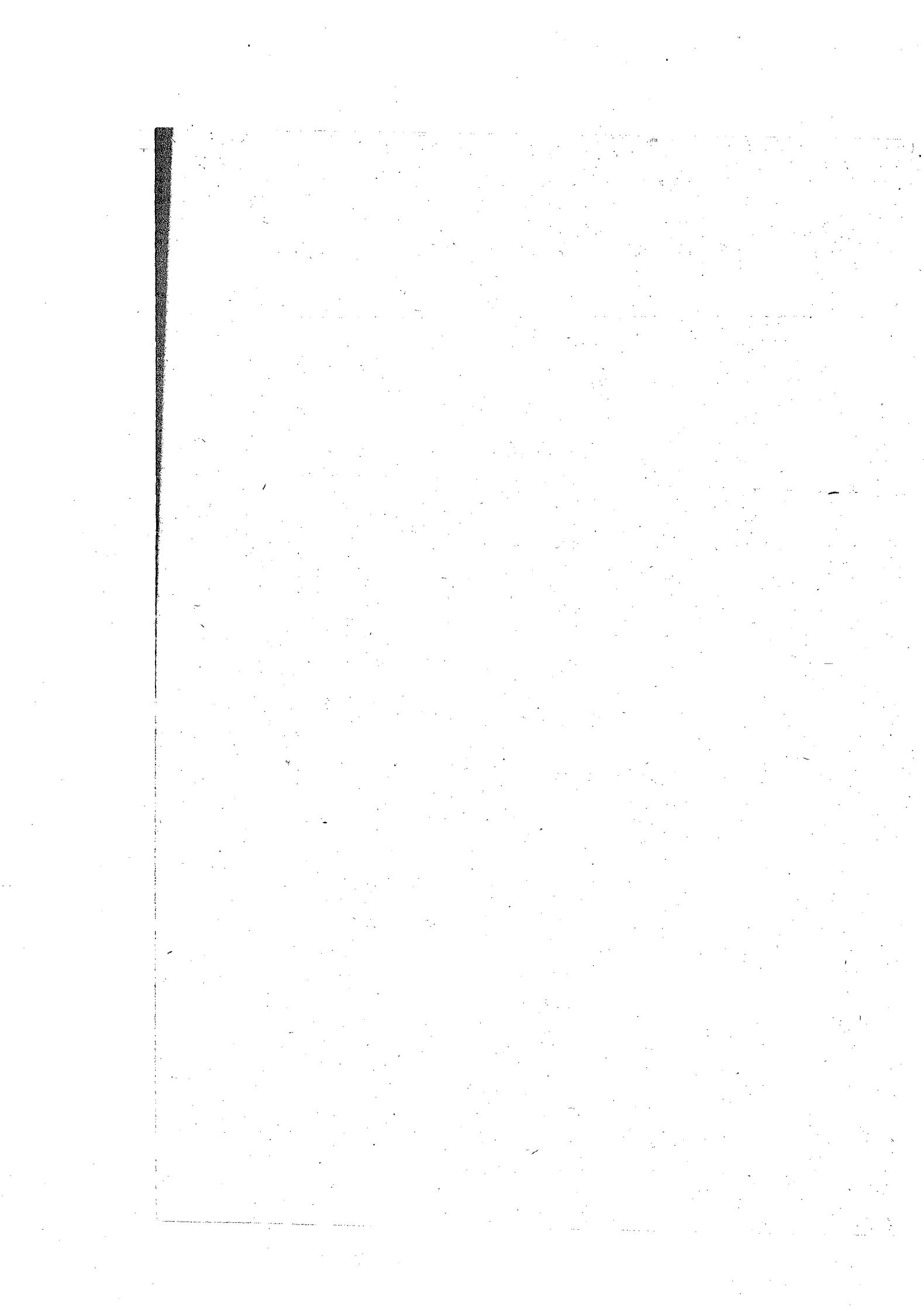


TABLE SHOWING EFFECT OF PARLIAMENTARY LEGISLATION  
OF 1962

*Part I.—Central Acts amended, repealed or otherwise affected*

Year of Act	No. of Act	Short title of Act	How affected	No. and section of 1962 Act by which affected
1	2	3	4	5
1878	8	Sea Customs Act, 1878	Repealed (w.e.f. 1-2-1963).	52, s. 160 and Schedule.
1889	1	Metal Tokens Act, 1889	Ss. 1 and 6 amended. S. 2 substituted.	46, ss. 2 and 4. <i>Ibid.</i> , s. 3.
1890	9	Indian Railways Act, 1890	Ss. 82A, 126, 127 and 128 amended. S. 82H substituted.	7; ss. 2, 4, 5 and 6. <i>Ibid.</i> , s. 3.
1891	18	Bankers' Books Evidence Act, 1891.	S. 2 amended	56, s. 4.
1894	1	Land Acquisition Act, 1894	Ss. 3, 40, 41 and 55 amended. Ss. 44A and 44B inserted.	31, ss. 2, 3, 4 and 6. <i>Ibid.</i> , s. 5.
1896	8	Inland Bonded Warehouses Act, 1896.	Repealed (w.e.f. 1-2-1963).	52, s. 160 and Schedule.
1903	15	Indian Extradition Act, 1903	Repealed (w.e.f. 5-1-1963).	34, s. 37.
1923	8	Workmen's Compensation Act, 1923.	Ss. 2, 3, 4, 10, 18A, 20 and 21 amended (w.e.f. 1-2-1963). S. 36 inserted (w.e.f. 1-2-1963).	64, ss. 2 to 7. <i>Ibid.</i> , s. 8.
				Schedule I, Schedule II and Schedule III amended (w.e.f. 1-2-1963).
				Schedule IV substituted (w.e.f. 1-2-1963).
1923	19	Indian Official Secrets Act, 1923.	Ss. 5 and 12 amended (temporarily).	51, s. 6.
1924	19	Land Customs Act, 1924	Repealed (w.e.f. 1-2-1963).	52, s. 160 and Schedule.
1925	39	Indian Succession Act, 1925	Ss. 211, 212 and 213 amended.	16, ss. 2, 3 and 4.

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*Effect of Parliamentary Legislation of 1962*

1	2	3	4	5
1934	2	Reserve Bank of India Act, 1934.	Ss. 8, 17, 42 and 43A amended. Chapter IIIA inserted.	35, ss. 2 to 5. <i>Ibid.</i> , s. 6.
1934	22	Aircraft Act, 1934	Ss. 5, 8, 11 and 13 amended (temporarily). S. 14 omitted (temporarily).	51, s. 6. <i>Ibid.</i> , s. 6.
1934	32	Indian Tariff Act, 1934	S. 16 omitted (w.e.f. 1-2-1963). First Schedule amended.	52, s. 160 and Schedule (w.e.f. 1-2-1963). 20, s. 15 and Schedule II.
1936	4	Payment of Wages Act, 1936	First Schedule amended (w.e.f. 1-1-1963). S. 2 substituted (w.e.f. 1-2-1963).	47, s. 2. 52, s. 160.
1939	4	Motor Vehicles Act, 1939	Ss. 5 and 6 omitted (w.e.f. 1-2-1963).	51, s. 6.
1940	23	Drugs Act, 1940	Long title and Preamble amended (when notified).	21, s. 2.
			Ss. 1, 3, 6, 8, 10, 11, 12, 14, 16, 18, 19 to 26, 28, 29, 30, 31 and 33 amended (when notified).	<i>Ibid.</i> , ss. 3 to 6, 8 to 12, 14 to 18, 20, 21 and 22.
1941	5	Assam Rifles Act, 1941	S. 1 amended S. 10 substituted	30, s. 2. <i>Ibid.</i> , s. 3.
1942	6	Multi-unit Co-operative Societies Act, 1942.	Ss. 5A and 6 amended.	60, ss. 2 and 3.
1944	1	Central Excises and Salt Act, 1944.	S. 2 amended (w.e.f. 23-4-1962).	20, s. 16.
1946	31	Foreigners Act, 1946	First Schedule amended.	<i>Ibid.</i> , s. 16.
			Ss. 3 and 4 amended.	42, s. 3.

*Effect of Parliamentary Legislation of 1962*

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I	2	3	4	5
1948	9	Dock Workers (Regulation of Employment) Act, 1948.	Ss. 2, 3 and 5 amended (w.e.f. 1-6-1962).	8, ss. 2, 3 and 4.
			Ss. 5A, 5B, 5C, 6A, 6B, 6C, 8 and 9 inserted (w.e.f. 1-6-1962).	Ibid., ss. 5, 6 and 7.
1948	29	Atomic Energy Act, 1948	Repealed (w.e.f. 21-9-1962).	33, s. 32.
1948	54	Electricity (Supply) Act, 1948	S. 20A inserted.	44, s. 2.
1949	1	Indian Tariff (Amendment) Act, 1949.	Ss. 4 and 5 amended.	II, s. 3.
1949	10	Banking Companies Act, 1949	Ss. 11, 17, 18, 22, 24, 35B and 51 amended.	36, ss. 2 to 7.
1950	43	Representation of the People Act, 1950.	S. 4 amended (w.e.f. 5-3-1962).	I, s. 3.
			First Schedule amended (w.e.f. 5-3-1962).	Ibid., s. 3.
			First Schedule amended (when notified).	27, s. 9.
			S. 7 amended.	Ibid., s. II.
			Second Schedule amended.	Ibid., s. II.
1950	74	Telegraph Wires (Unlawful Possession) Act, 1950.	S. 5 substituted. S. 8 amended.	15, s. 2. Ibid., s. 3.
1951	30	President's Pension Act, 1951	Ss. 2 and 4 amended. S. 5 inserted.	24, ss. 2 and 3. Ibid., s. 4.
1951	43	Representation of the People Act, 1951.	S. 4 amended (w.e.f. 5-3-1962). S. 5 amended.	I, s. 3. 27, s. II.
1951	63	State Financial Corporations Act, 1951.	Ss. 2, 3A, 4, 10, 17, 19, 27, 28, 29, 32, 32A, 33, 35, 37 and 43 amended (w.e.f. 16-4-1962).	6, ss. 2, 3, 4, 6, 8, 9, 12 to 18, 20 and 22. Ibid., ss. 5, 7, 10 and 11.
			Ss. 7, 8, 16, 25 and 26 substituted (w.e.f. 16-4-1962).	Ibid., ss. 5, 7, 10 and 11.
			Ss. 35A, 41A and 43A inserted (w.e.f. 16-4-1962).	Ibid., ss. 19, 21 and 23.
1951	65	Industries (Development and Regulation) Act, 1951.	First Schedule amended.	37, s. 2.
1952	19	Employees' Provident Funds Act, 1952.	S. 6 amended (w.e.f. 1-1-1963).	48, s. 2.

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## Effect of Parliamentary Legislation of 1962

	I	2	3	4	5
1953	27	Air Corporations Act, 1953	Ss. 18, 30, 36, 44 17, ss. 2 to 6, and 45 amended.		
			The Corporation <i>Ibid.</i> , s. 7. "Air India International" established under s. 3 re-named as "Air India" (w.e.f. 8-6-1962).		
1955	16	Medicinal and Toilet Preparations (Excise Duties) Act, 1955.	Schedule amended 20, s. 18. (w.e.f. 23-4-1962).		
1955	23	State Bank of India Act, 1955	Ss. 33 and 34 amended. 35, s. 7. Ss. 31, 34 and 50 56, s. 2. amended.		
1955	45	Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955.	Ss. 2, 18, 19, 20 65, ss. 2, 6, 7 and 9. amended (w.e.f. 15-1-1963). Ss. 5, 8 to 13 and <i>Ibid.</i> , ss. 3, 4 and 5. 17 substituted (w.e.f. 15-1-1963). Ss. 19A and 19B <i>Ibid.</i> , s. 8. inserted (w.e.f. 15-1-1963).		
1956	1	Companies Act, 1956	S. 293B inserted 43, s. 2. (temporarily).		
1956	28	Agricultural Produce (Development and Warehousing) Corporations Act, 1956.	Repealed (in part) 26, s. 24. (w.e.f. 14-3-1963). Repealed (w.e.f. 58, s. 43. 18-3-1963).		
1956	37	States Reorganisation Act, 1956.	S. 15 amended (when notified).		
1956	78	Hindu Adoptions and Maintenance Act, 1956.	Ss. 2, 9 and 11 45, ss. 2, 3 and 4. amended.		
1957	27	Wealth-tax Act, 1957	S. 5 amended (w.e.f. 20, s. 12. 1-4-1962). Schedule amended <i>Ibid.</i> , s. 12. (w.e.f. 1-4-1962). S. 5 amended 54, s. 5.		
1957	55	Union Duties of Excise (Distribution) Act, 1957.	Repealed (w.e.f. 1-4-1962). 3, s. 6.		

*Effect of Parliamentary Legislation of 1962*

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	1	2	3	4	5
1957	57	Estate Duty (Distribution) Act, 1957.	(Distribution) Repealed (w.e.f. 1-4-1962).	9, s. 5.	
1957	58	Additional Duties of Excise (Goods of Special Importance) Act, 1957.	Long title amended.	10, s. 2.	
			S. 6 amended . . .	<i>Ibid.</i> , s. 3.	
			Second Schedule subs- tituted.	<i>Ibid.</i> , s. 4.	
			First Schedule am- ended.	20, s. 17.	
1957	66	Delhi Municipal Corpora- tion Act, 1957.	S. 184 substituted (w.e.f. 1-4-1963).	57, s. 25.	
1958	18	Gift-tax Act, 1958	Ss. 2, 3, 5, 12, 13, 15, 16, 22 to 26, 35, 38, 40, 41A, 45 and 46 amended (w.e.f. 1-4-1963).	53, ss. 2 to 4, 8, 10, 12, 13, 17 to 21, 27, 29, 31, 33, 35 and 36.	
			Ss. 7A, 9A, 12A, 14A, 19A, 21A, 28A, 28B, and Chapter VIIA inserted (w.e.f. 1-4-1963).	<i>Ibid.</i> , ss. 5, 6, 9, 11, 15, 16, 22 and 25.	
			Ss. 11, 17, 29, 31, 32, 33, 34, 36, 39, 41, 42, 28, 30, 32 and 43 substituted (w.e.f. 1-4-1963).	ss. 7, 14, 23, 24, 26, 28, 30, 32 and 34.	
1958	29	Working Journalists (Fixation of Rates of Wages) Act, 1958.	S. 8 omitted (w.e.f. 15-1-1963).	S. 14, s. 10.	
			S. 9 amended (w.e.f. <i>Ibid.</i> , s. 10. 15-1-1963).		
			S. 12A inserted <i>Ibid.</i> , s. 10. (w.e.f. 15-1-1963).		
1959	38	State Bank of India (Subsidiary Banks) Act, 1959.	S. 2 (w.e.f. 1-1-1963), Chapter II, ss. 3, 12 and 13 (w.e.f. 1-1-1963); 34 and 36 (w.e.f. 1-1-1963) amended.	56, s. 3.	
			S. 3A inserted. . .	<i>Ibid.</i> , s. 3.	
			S. 59 substituted <i>Ibid.</i> , s. 3. (w.e.f. 1-1-1963).		
1959	43	Oil and Natural Gas Commission Act, 1959.	Ss. 1, 14, 15 and 21 amended.	38, ss. 2 to 5.	
1961	14	Finance Act, 1961	S. 2 modified . . .	11, s. 2.	
			First Schedule modi- fied.	<i>Ibid.</i> , s. 2.	
			First Schedule am- ended (retrospec- tively).	20, s. 14.	

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### Effect of Parliamentary Legislation of 1962

	1	2	3	4	5
1961	25	Advocates Act, 1961	Ss. 24 and 54 amended. Ss. 58 and 59 inserted. S. 24 amended (retrospectively). S. 3 amended (when notified).	14, ss. 2 and 3. <i>Ibid.</i> , s. 4. 25, s. 2. 27, s. 14.	
1961	43	Income-tax Act, 1961	Ss. 2, 37, 72, 87, 88 and 109 amended. Ss. 70, 71, 74, 114 and 115 substituted. Ss. 2, 88 and 193 amended.	20, ss. 3, 4, 6, 8, 9 and 10. <i>Ibid.</i> , ss. 5, 7 and 11. 10. 54, ss. 2, 3 and 4.	(w.e.f. 1-4-1962).
1962	11	Finance Act, 1962	Repealed.	(retrospectively). 20, s. 19.	

### Part II.—Central Ordinances repealed

Year of Ordinance	No. of Ordinance	Short title of Ordinance	How affected	No. and section of 1962 Act by which affected
1	2	3	4	5
1962	1	Advocates (Amendment) Ordinance, 1962.	Repealed	14, s. 5.
1962	2	Goa, Daman and Diu (Administration) Ordinance, 1962.	Repealed (w.e.f. 5-3-1962).	1, s. 11.
1962	3	Land Acquisition (Amendment) Ordinance, 1962.	Repealed	31, s. 8.
1962	4	Defence of India Ordinance, 1962.	Repealed	51, s. 48.
1962	5	Foreigners Law (Application and Amendment) Ordinance, 1962.	Repealed	42, s. 4.
1962	6	Defence of India (Amendment) Ordinance, 1962.	Repealed	51, s. 48.
1962	7	Companies (Amendment) Ordinance, 1962.	Repealed	43, s. 3.
1962	8	Pondicherry (Administration) Ordinance, 1962.	Repealed (w.e.f. 16-8-1962).	49, s. 20.

*Effect of Parliamentary Legislation of 1962*

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*Part III.—Central Regulations repealed*

Year of Regulation	No. of Regulation	Short title of Regulation	How affected	No. and section of 1962 Act by which affected
1	2	3	4	5
1961	2	Nagaland (Transitional Provisions) Regulation, 1961.	Repealed (when notified).	27, s. 33.
1961	3	North East Frontier Agency and Tuensang District (Extradition) Regulation, 1961.	Repealed (w.e.f. 5-1-1963).	34, s. 37.

*Part IV.—British Statutes in their application to India*

Year	No. of Statute	Short title or subject	How affected	No. and section of 1962 Act by which affected
1	2	3	4	5
1870	33 & 34 Vict., c. 52.	Extradition Act, 1870	Repealed (w.e.f. 5-1-1963).	34, s. 37.
1873	36 & 37 Vict., c. 60.	Extradition Act, 1873	Repealed (w.e.f. 5-1-1963).	<i>Ibid.</i> , s. 37.
1881	44 & 45 Vict., c. 69.	Fugitive Offenders Act, 1881.	Repealed (w.e.f. 5-1-1963).	<i>Ibid.</i> , s. 37.
1906	6 Edw. 7, c. 15.	Extradition Act, 1906	Repealed (w.e.f. 5-1-1963).	<i>Ibid.</i> , s. 37.
1932	22 & 23 Geo. 5, c. 39.	Extradition Act, 1932	Repealed (w.e.f. 5-1-1963).	<i>Ibid.</i> , s. 37.

*Part V.—State Acts amended*

Year of Act	No. of Act	Short title of Act	How affected	No. and section of 1962 Act by which affected
1	2	3	4	5
1933	..	State Bank of Kurundwad (Junior) Act, 1933.	S. 22 amended S. 22A inserted	56, s. 6. <i>Ibid.</i> , s. 6.

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*Effect of Parliamentary Legislation of 1962*

*Part VI.—State Acts in force in the Union Territories repealed*

Year of Act	No. of Act	Short title of Act	How affected	No. and section of 1962 Act by which affected
1	2	3	4	5

DELHI

1924	4	Punjab Motor Vehicles Taxation Act, 1924, as extended to Delhi.	Repealed (w. e. f. 1-4-1963).	(w. e. f. 57, s. 24 and Schedule II.)
1940	2	Punjab Motor Vehicles Taxation (Amendment) Act, 1940, as extended to Delhi.	Repealed (w. e. f. 1-4-1963).	(w. e. f. Ibid., s. 24 and Schedule II.)
1954	6	Punjab Motor Vehicles Taxation (Delhi Amendment) Act, 1954.	Repealed (w. e. f. 1-4-1963).	(w. e. f. Ibid., s. 24 and Schedule II.)
1956	2	Punjab Motor Vehicles Taxation (Delhi Amendment) Act, 1955.	Repealed (w. e. f. 1-4-1963).	(w. e. f. Ibid., s. 24 and Schedule II.)
1956	10	Punjab Motor Vehicles Taxation (Delhi Amendment) Act, 1956.	Repealed (w. e. f. 1-4-1963).	(w. e. f. Ibid., s. 24 and Schedule II.)

MANIPUR

1939	4	Assam Sales of Motor Spirit and Lubricants Taxation Act, 1939, as extended to Manipur.	Repealed (when notified).	55, s. 37.
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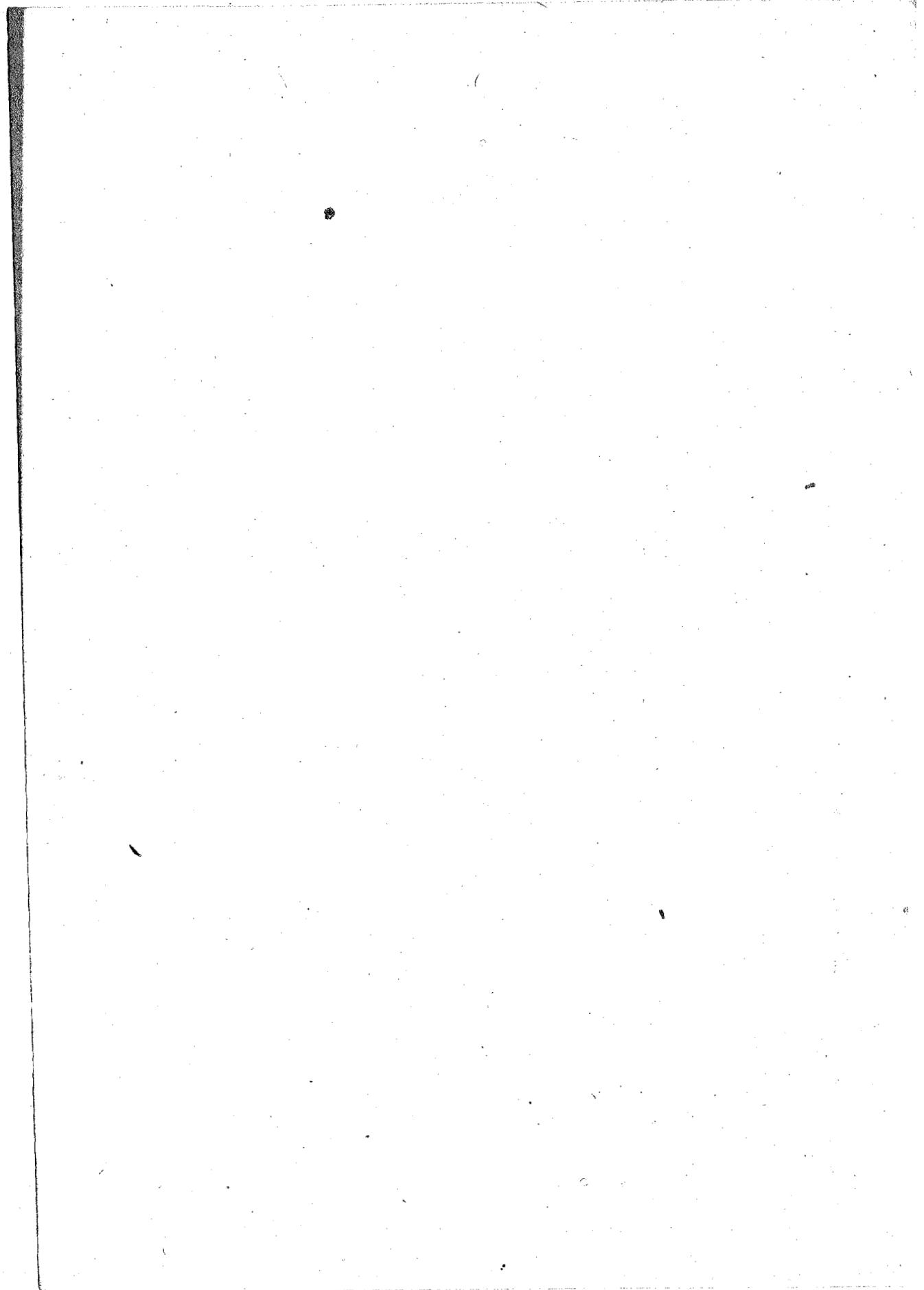
*Part VII.—Constitution of India amended*

How affected	No. and section of 1962 Act by which affected
I	2
Article 81 amended	Constitution (Fourteenth Amendment) Act, 1962, s. 2.
Article 239A inserted	<i>Ibid.</i> , s. 4.
Article 240 amended (w.e.f. 20-12-1961)	Constitution (Twelfth Amendment) Act, 1962, s. 3.
Article 240 amended (partly w.e.f. 16-8-1962)	Constitution (Fourteenth Amendment) Act, 1962, ss. 5 and 7.
Part XXI heading substituted (when notified)	Constitution (Thirteenth Amendment) Act, 1962, s. 2.
Article 371 inserted (when notified)	<i>Ibid.</i> , s. 2.

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1	2
First Schedule amended (w.e.f. 20-12-1961)	Constitution (Twelfth Amendment) Act, 1962, s. 2.
First Schedule amended (when notified)	27, s. 4.
First Schedule amended (w.e.f. 16-8-1962)	Constitution (Fourteenth Amendment) Act, 1962, ss. 3 and 7.
Fourth Schedule amended (when notified)	27, s. 6.
Fourth Schedule amended . . . .	Constitution (Fourteenth Amendment) Act, 1962, s. 6.
Sixth Schedule amended (when notified) . .	27, s. 5.



Not Corrected: See India Code Volume II B, Pt. IV, R-667

THE GOA, DAMAN AND DIU (ADMINISTRATION)  
ACT, 1962

No. I OF 1962

[27th March, 1962]

An Act to provide for the administration of the Union territory of Goa, Daman and Diu and for matters connected therewith

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

1. (1) This Act may be called the Goa, Daman and Diu (Administration) Act, 1962. Short title  
and com-  
mencement.

(2) It shall be deemed to have come into force on the 5th day of March, 1962.

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

Definitions.

(a) "Administrator" means the Administrator of Goa, Daman and Diu appointed by the President under article 239 of the Constitution;

(b) "appointed day" means the twentieth day of December, 1961;

(c) "Goa, Daman and Diu" means the Union territory of Goa, Daman and Diu.

3. (1) There shall be allotted two seats to the Union territory of Goa, Daman and Diu in the House of the People. Representation  
in the  
House of  
the People.

43 of 1950. (2) In the Representation of the People Act, 1950,—

(a) in section 4, in sub-section (1), after the words "to Dadra and Nagar Haveli", the words "to Goa, Daman and Diu" shall be inserted;

(b) in the First Schedule,—

(i) after entry 22, the following entry shall be inserted, namely:—

"22. Goa, Daman and Diu.....2";

(ii) entries 23 and 24 shall be re-numbered as entries 24 and 25 respectively.

(3) In the Representation of the People Act, 1951, in section 4, 43 of 1951, after the words "to Dadra and Nagar Haveli", the words "to Goa, Daman and Diu" shall be inserted.

Officers and functionaries in relation to Goa, Daman and Diu.

4. Without prejudice to the powers of the Central Government to appoint from time to time such officers and authorities as may be necessary for the administration of Goa, Daman and Diu, all judges, magistrates and other officers and authorities who, immediately before the commencement of this Act, were exercising lawful functions in connection with the administration of Goa, Daman and Diu or any part thereof, shall, unless otherwise directed at any time by the Central Government in relation to any such judge, magistrate or other officer or authority, or until other provision is made by law, continue to exercise in connection with such administration their respective functions in the same manner and to the same extent as before such commencement with such altered designation, if any, as that Government may determine.

Continuance of existing laws and their adaptation.

5. (1) All laws in force immediately before the appointed day in Goa, Daman and Diu or any part thereof shall continue to be in force therein until amended or repealed by a competent Legislature or other competent authority.

(2) For the purpose of facilitating the application of any such law in relation to the administration of Goa, Daman and Diu as a Union territory and for the purpose of bringing the provisions of any such law into accord with the provisions of the Constitution, the Central Government may, within two years from the appointed day, by order, ~~make~~ <sup>may</sup> such adaptations and modifications, whether by way of repeal or amendment, as may be necessary or expedient and thereupon, every such law shall have effect subject to the adaptations and modifications so made.

Power to extend enactments to Goa, Daman and Diu.

6. The Central Government may, by notification in the Official Gazette, extend with such restrictions or modifications as it thinks fit, to Goa, Daman and Diu any enactment which is in force in a State at the date of the notification.

Extension of the jurisdiction of Bombay High Court to Goa, Daman and Diu.

7. As from such date as the Central Government may, by notification in the Official Gazette, specify, the jurisdiction of the High Court at Bombay shall extend to Goa, Daman and Diu.

Power to construe laws.

8. For the purpose of facilitating the application of any law in relation to Goa, Daman and Diu, any court or other authority may construe any such law in such manner not affecting the substance,

as may be necessary or proper to adapt it to the matter before the court or other authority.

**9.** (1) All things done and all action taken (including any acts of executive authority, proceedings, decrees and sentences) in or with respect to Goa, Daman and Diu on or after the appointed day and before the commencement of this Act, by the Administrator or any other officer, whether civil or military, or by any other person acting under the orders of the Administrator or such officer, which have been done or taken in good faith and in a reasonable belief that they were necessary for the peace and good government of Goa, Daman and Diu shall be as valid and operative as if they had been done or taken in accordance with law.

(2) No suit or other legal proceeding whatsoever, whether civil or criminal, shall lie in any court of law against the Administrator or any other officer of Government, whether civil or military, or against any other person acting under the orders of the Administrator or such other officer for, or on account of, or in respect of, anything done or any action taken in Goa, Daman and Diu or any part thereof on or after the appointed day and before the commencement of this Act which has been done or taken in good faith and in a reasonable belief that it was necessary for the peace and good government of Goa, Daman and Diu:

Provided that if any such suit or other legal proceeding has been instituted before the commencement of this Act, it shall, on such commencement, abate.

**10.** (1) If any difficulty arises in giving effect to the provisions of this Act or in connection with the administration of Goa, Daman and Diu, the Central Government may, by order, make such further provision as appears to it to be necessary or expedient for removing the difficulty.

(2) Any order under sub-section (1) may be made so as to be retrospective to any date not earlier than the appointed day.

**11.** (1) The Goa, Daman and Diu (Administration) Ordinance, 1962, is hereby repealed.

(2) Notwithstanding such repeal, 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 done or taken in exercise of the powers conferred by or under this Act.

## THE APPROPRIATION ACT, 1962

No. 2 OF 1962

[29th March, 1962]

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 1961-62.

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 Appropriation Act, 1962.

Issue of Rs.  
1,15,89,47,000  
out of the  
Consolidated  
Fund of  
India for  
the year  
1961-62.

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 hundred and fifteen crores, eighty-nine lakhs and forty-seven thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1961-62, 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 Consolida- ted Fund	Total
		Rs.	Rs.	Rs.
1	Ministry of Commerce and Industry . . .	2,40,000	..	2,40,000
9	Defence Services— Effective—Army . . .	21,57,39,000	..	21,57,39,000
12	Defence Services— Non-Effective Charges . . .	32,00,000	..	32,00,000
13	Ministry of Education . . .	1,82,000	..	1,82,000
19-B	Goa, Daman and Diu . . .	1,57,65,000	..	1,57,65,000
22	Customs . . .	..	55,000	55,000
30	Territorial and Political Pensions . . .	1,00,000	..	1,00,000
31	Superannuation Allowances and Pensions . . .	12,71,000	..	12,71,000
32	Miscellaneous Departments and Other Expenditure under the Ministry of Finance . . .	3,13,00,000	..	3,13,00,000
35	Miscellaneous Adjustments between the Union and State Governments . . .	2,79,000	..	2,79,000
	CHARGED.—Payments of States' Share of Union Excise Duties . . .	..	4,60,35,000	4,60,35,000
47	Cabinet . . .	1,46,000	..	1,46,000
49	Administration of Justice . . .	1,60,000	..	1,60,000
51	Census . . .	51,00,000	..	51,00,000
52	Statistics . . .	6,27,000	..	6,27,000
53	Privy Purses and Allowances of Indian Rulers . . .	36,000	..	36,000
54	Delhi . . .	44,40,000	..	44,40,000
55	Himachal Pradesh . . .	43,67,000	29,000	43,96,000
57	Manipur . . .	27,09,000	..	27,09,000
58	Tripura . . .	45,00,000	..	45,00,000

No of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
60	Miscellaneous Departments and Expenditure under the Ministry of Home Affairs . . .	24,11,000	..	24,11,000
61	Ministry of Information and Broadcasting . . .	40,000	..	40,000
64	Ministry of Irrigation and Power . . .	2,75,000	..	2,75,000
73	Miscellaneous Expenditure under the Ministry of Law . . .	20,000	..	20,000
83	Ministry of Steel, Mines and Fuel . . .	84,000	..	84,000
85	Miscellaneous Departments and Other Expenditure under the Ministry of Steel, Mines and Fuel . . .	2,15,29,000	..	2,15,29,000
86	Ministry of Transport and Communications . . .	1,55,000	..	1,55,000
87	Indian Posts and Telegraphs Department . . .	2,30,00,000	..	2,30,00,000
88	Posts and Telegraphs Dividend to General Revenues and Appropriations to Reserve Funds . . .	2,79,87,000	..	2,79,87,000
89	Mercantile Marine . . .	4,90,000	..	4,90,000
95	Communications (including National Highways) . . .	44,54,000	..	44,54,000
97	Ministry of Works, Housing and Supply . . .	2,05,000	..	2,05,000
98	Supplies . . .	..	6,000	6,000
99	Other Civil Works . . .	4,12,83,000	46,000	4,13,29,000
101	Miscellaneous Departments and Expenditure under the Ministry of Works, Housing and Supply . . .	5,18,000	..	5,18,000
111	Defence Capital Outlay . . .	..	1,88,000	1,88,000
120	Loans and Advances by the Central Government . . .	..	59,50,00,000	59,50,00,000

I No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
I21	Capital Outlay on Forests . . .	Rs. 3,14,000	Rs. ..	Rs. 3,14,000
I23	Other Capital Outlay of the Ministry of Food and Agriculture . . .	..	66,000	66,000
I31	Capital Outlay of the Ministry of Scientific Research and Cultural Affairs . . .	1,000	..	1,000
I32	Capital Outlay of the Ministry of Steel, Mines and Fuel . . .	7,14,41,000	..	7,14,41,000
I33	Capital Outlay on Posts and Telegraphs (Not Met From Revenue) . . .	1,000	4,50,000	4,51,000
I35	Capital Outlay on Ports . . .	2,000	..	2,000
I36	Capital Outlay on Roads . . .	3,27,00,000	..	3,27,00,000
I37	Other Capital Outlay of the Ministry of Transport and Communications . . .	1,000	..	1,000
TOTAL . . .		51,70,72,000	64,18,75,000	1,15,89,47,000

THE UNION DUTIES OF EXCISE (DISTRIBUTION)  
ACT, 1962

NO. 3 OF 1962

[30th March, 1962]

An Act to provide for the distribution of a part of the net proceeds of certain Union duties of excise among the States in pursuance of the principles of distribution formulated and the recommendations made by the Finance Commission in its report dated the 14th day of December, 1961.

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 Union Duties of Excise (Distribution) Act, 1962.

**Definition.** 2. In this Act, the expression "distributable Union duties of excise" means twenty per cent. of the net proceeds of the duties of excise levied and collected under the Central Excises and Salt Act, 1944 on each of the articles specified in the Schedule to this Act, as defined in the First Schedule to the Central Excises and Salt Act, 1944.

**Distribution of a part of union duties of excise.** 3. During each financial year commencing on and after the first day of April, 1962, there shall be paid out of the Consolidated Fund of India to each of the States specified in column 1 of the Table

[ACT 3 OF 1962]    *Union Duties of Excise (Distribution)*

9

below such percentage of the distributable Union duties of excise as among the States, is set out against it in column 2:—

TABLE

I State	z Percentage
Andhra Pradesh . . . . .	8·23
Assam . . . . .	4·73
Bihar . . . . .	11·56
Gujarat . . . . .	6·45
Jammu and Kashmir . . . . .	2·02
Kerala . . . . .	5·46
Madhya Pradesh . . . . .	8·46
Madras . . . . .	6·08
Maharashtra . . . . .	5·73
Mysore . . . . .	5·82
Orissa . . . . .	7·07
Punjab . . . . .	6·71
Rajasthan . . . . .	5·93
Uttar Pradesh . . . . .	10·68
West Bengal . . . . .	5·07

4. Any expenditure under the provisions of this Act shall be expenditure charged on the Consolidated Fund of India.

Expenditure to be charged on the Consolidated Fund of India.

5. (1) The Central Government may, by notification in the Official Gazette, make rules providing for the time at which and the manner in which, any payments under this Act are to be made, for the making of adjustments between one financial year and another and for any other incidental or ancillary matters.

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.

55 of 1957. 6. The Union Duties of Excise (Distribution) Act, 1957, shall, as Repeal, from the first day of April, 1962, stand repealed.

## THE SCHEDULE

(See section 2)

I

2

## Name of article

Number of item of the  
Central Excises and  
Salt Act, 1944, defining  
the article

Sugar . . . . .	I
Coffee . . . . .	2
Tea . . . . .	3
Tobacco . . . . .	4
Kerosene . . . . .	7
Refined diesel oils and vaporizing oil . . . . .	8
Diesel oil, not otherwise specified . . . . .	9
Furnace oil . . . . .	10
Asphalt and Bitumen] . . . . .	II
Vegetable non-essential oils . . . . .	12
Vegetable product . . . . .	13
Pigments, colours, paints, enamels, varnishes, blacks and cellulose lacquers . . . . .	14
Soap . . . . .	15
Tyres . . . . .	16
Paper . . . . .	17
Rayon and synthetic fibres and yarn . . . . .	18
Cotton fabrics . . . . .	19
Silk fabrics . . . . .	20
Woollen fabrics . . . . .	21
Rayon or artificial silk fabrics . . . . .	22
Cement . . . . .	23
Pig iron . . . . .	25
Steel ingots . . . . .	26
Aluminium . . . . .	27
Tin plate and tinned sheets including tin taggers, and cutting of such plates, sheets or taggers . . . . .	28
Internal combustion engines, all sorts . . . . .	29

I	II
Electric motors, all sorts and parts thereof	30
Electric batteries, and parts thereof	31
Electric lighting bulbs and fluorescent lighting tubes	32
Electric fans	33
Motor vehicles	34
Cycles, parts of cycles other than motor cycles	35
Footwear	36
Cinematograph films, exposed	37
Matches	38

## THE APPROPRIATION (RAILWAYS) ACT, 1962

No. 4 OF 1962

[30th March, 1962]

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 1961-62 for the purposes of Railways.

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 Appropriation (Railways) Act, 1962.

Issue of Rs. 59,72,000 out of the Consolidated Fund of India for the Financial year 1961-62.

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 fifty-nine lakhs and seventy-two thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1961-62, 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
		Rs.	Rs.	Rs.
3	Payments to Worked Lines and Others . . .	5,56,000	..	5,56,000
5	Working Expenses—Repairs and Maintenance . . .	..	14,000	14,000
6	Working Expenses—Operating Staff . . .	..	42,000	42,000
13	Open Line Works (Revenue)—Labour Welfare . . .	36,56,000	..	36,56,000
14	Open Line Works (Revenue)—Other than Labour Welfare . . .	..	33,000	33,000
15	Construction of new Lines . . .	..	6,86,000	6,86,000
16	Open Line Works—Additions . . .	..	2,25,000	2,25,000
17	Open Line Works—Replacements . . .	..	3,15,000	3,15,000
18	Open Line Works—Development Fund . . .	..	4,45,000	4,45,000
TOTAL . . .		42,12,000	17,60,000	59,72,000

THE APPROPRIATION (VOTE ON ACCOUNT) ACT, 1962

NO. 5 OF 1962

[30th March, 1962]

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 1962-63.

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 Appropriation (Vote on Account) Act, 1962.

**Withdrawal of Rs. 19,97,46,98,000 from and 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 withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of one thousand nine hundred and ninety-seven crores, forty-six lakhs and eight thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1962-63.

**Appropriation.** 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)

I No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
1	Ministry of Commerce and Industry	21,60,000	..	21,60,000
2	Industries	5,23,36,000	..	5,23,36,000
3	Salt	21,66,000	..	21,66,000
4	Commercial Intelligence and Statistics	23,47,000	..	23,47,000
5	Other Revenue Expenditure of the Ministry of Commerce and Industry	61,40,000	1,000	61,41,000
6	Ministry of Community Development and Co-operation	8,07,000	..	8,07,000
7	Community Development Projects, National Extension Service and Co-operation	94,11,000	..	94,11,000
8	Ministry of Defence	11,69,000	..	11,69,000
9	Defence Services—Effective—Army	60,91,58,000	2,50,000	60,94,08,000
10	Defence Services—Effective—Navy	4,97,48,000	13,000	4,97,61,000
11	Defence Services—Effective—Air Force	19,85,26,000	13,000	19,85,39,000
12	Defence Services—Non Effective	5,25,00,000	12,000	5,25,12,000
13	Ministry of Education	11,63,000	..	11,63,000
14	Education	4,48,56,000	..	4,48,56,000
15	Other Revenue Expenditure of the Ministry of Education	73,83,000	..	73,83,000
16	Tribal Areas	2,72,16,000	..	2,72,16,000
17	Naga Hills—Tuensang Area	1,05,61,000	..	1,05,61,000
18	External Affairs	3,66,39,000	..	3,66,39,000
19	State of Pondicherry	1,11,30,000	3,000	1,11,33,000

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
20	Dadra and Nagar Haveli Area .	6,58,000	..	6,58,000
21	Goa, Daman and Diu . .	1,31,93,000	..	1,31,93,000
22	Other Revenue Expenditure of the Ministry of External Affairs . . .	1,20,06,000	..	1,20,06,000
23	Ministry of Finance . . .	45,08,000	..	45,08,000
24	Customs . . .	1,00,22,000	12,000	1,00,34,000
25	Union Excise Duties . .	2,45,54,000	11,000	2,45,65,000
26	Taxes on Income including Corporation Tax, etc. . .	1,55,59,000	35,000	1,55,94,000
27	Stamps . . .	68,70,000	..	68,70,000
28	Audit . . .	3,10,72,000	5,78,000	3,16,50,000
29	Currency and Coinage . .	4,45,94,000	..	4,45,94,000
30	Mint . . .	64,10,000	..	64,10,000
31	Pensions and other Retirement benefits . . .	1,24,99,000	3,75,000	1,28,74,000
32	Territorial and Political Pen- sions . . .	6,19,000	..	6,19,000
33	Opium . . .	4,87,56,000	..	4,87,56,000
34	Other Revenue Expenditure of the Ministry of Finance . .	11,30,98,000	..	11,30,98,000
35	Planning Commission . . .	23,81,000	..	23,81,000
36	Grants-in-aid to States . .	38,97,01,000	17,10,73,000	56,07,74,000
37	Miscellaneous Adjustments be- tween the Central and State Governments . . .	6,36,000	..	6,36,000
38	Pre-partition Payments . . .	2,89,000	4,59,000	7,48,000
	Interest on Debt and Other Obligations and Reduction or Avoidance of Debt . . .	..	61,97,53,000	61,97,53,000
	Payments of States' Share of Union Excise Duties . .	..	28,59,09,000	28,59,09,000
39	Ministry of Food and Agricul- ture . . .	20,52,000	..	20,52,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
40	Agriculture . . . . .	93,37,000	..	93,37,000
41	Agricultural Research . . .	1,35,67,000	..	1,35,67,000
42	Animal Husbandry . . . .	27,57,000	..	27,57,000
43	Forest . . . . .	22,52,000	..	22,52,000
44	Other Revenue Expenditure of the Ministry of Food and Agriculture . . . .	5,42,00,000	2,22,000	5,44,22,000
45	Ministry of Health . . . .	4,57,000	..	4,57,000
46	Medical and Public Health . .	2,47,43,000	..	2,47,43,000
47	Other Revenue Expenditure of the Ministry of Health . .	29,03,000	..	29,03,000
48	Ministry of Home Affairs . .	96,76,000	..	96,76,000
49	Cabinet . . . . .	9,83,000	..	9,83,000
50	Zonal Councils . . . . .	59,000	..	59,000
51	Administration of Justice . .	70,000	5,34,000	6,04,000
52	Police . . . . .	1,77,90,000	..	1,77,90,000
53	Census . . . . .	23,42,000	..	23,42,000
54	Statistics . . . . .	52,13,000	..	52,13,000
55	Privy Purses and Allowances of Indian Rulers . . . .	1,37,000	1,29,50,000	1,30,87,000
56	Delhi . . . . .	4,01,56,000	2,000	4,01,58,000
57	Himachal Pradesh . . . .	2,88,47,000	..	2,88,47,000
58	Andaman and Nicobar Islands .	77,66,000	..	77,66,000
59	Manipur . . . . .	1,17,20,000	..	1,17,20,000
60	Tripura . . . . .	1,83,28,000	..	1,83,28,000
61	Laccadive, Minicoy and Amin- divi Islands . . . .	8,73,000	..	8,73,000
62	Other Revenue Expenditure of the Ministry of Home Affairs	27,83,000	..	27,83,000
63	Ministry of Information and Broadcasting . . . .	4,74,000	..	4,74,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
64	Broadcasting . . .	1,42,63,000	..	1,42,63,000
65	Other Revenue Expenditure of the Ministry of Information and Broadcasting . . .	1,04,84,000	..	1,04,84,000
66	Ministry of Irrigation and Power . . .	6,86,000	..	6,86,000
67	Multi-purpose River Schemes . . .	30,65,000	..	30,65,000
68	Other Revenue Expenditure of the Ministry of Irrigation and Power . . .	82,98,000	..	82,98,000
69	Ministry of Labour and Employment . . .	6,93,000	..	6,93,000
70	Chief Inspector of Mines . . .	6,11,000	..	6,11,000
71	Labour and Employment . . .	2,13,40,000	..	2,13,40,000
72	Other Revenue Expenditure of the Ministry of Labour and Employment . . .	27,000	..	27,000
73	Ministry of Law . . .	11,32,000	..	11,32,000
74	Elections . . .	42,08,000	..	42,08,000
75	Other Revenue Expenditure of the Ministry of Law . . .	81,000	..	81,000
76	Ministry of Rehabilitation . . .	6,93,000	..	6,93,000
77	Expenditure on Displaced Persons . . .	2,39,65,000	31,000	2,39,96,000
78	Ministry of Scientific Research and Cultural Affairs . . .	9,77,000	..	9,77,000
79	Archaeology . . .	31,26,000	..	31,26,000
80	Survey of India . . .	57,93,000	..	57,93,000
81	Botanical Survey . . .	7,49,000	..	7,49,000
82	Zoological Survey . . .	6,24,000	..	6,24,000
83	Scientific Research and Cultural Affairs . . .	4,96,20,000	..	4,96,20,000
84	Other Revenue Expenditure of the Ministry of Scientific Research and Cultural Affairs . . .	17,50,000	..	17,50,000

I No. of Vote	Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	
85	Ministry of Steel, Mines and Fuel . . .	8,15,000	..	8,15,000
86	Geological Survey . . .	91,16,000	..	91,16,000
87	Other Revenue Expenditure of the Ministry of Steel, Mines and Fuel . . .	12,32,18,000	..	12,32,18,000
88	Ministry of Transport and Communications . . .	25,71,000	..	25,71,000
89	Meteorology . . .	53,00,000	..	53,00,000
90	Central Road Fund . . .	1,12,73,000	..	1,12,73,000
91	Communications (including National Highways) . . .	1,89,17,000	..	1,89,17,000
92	Mercantile Marine . . .	20,91,000	..	20,91,000
93	Lighthouses and Lightships . . .	24,26,000	..	24,26,000
94	Aviation . . .	1,41,35,000	..	1,41,35,000
95	Overseas Communications Service . . .	40,17,000	..	40,17,000
96	Other Revenue Expenditure of the Ministry of Transport and Communications . . .	79,24,000	..	79,24,000
97	Indian Posts and Telegraphs Department (including Working expenses) . . .	20,63,18,000	15,000	20,63,33,000
98	Posts and Telegraphs Dividend to General Revenues and Appropriations to Reserve Funds . . .	3,48,00,000	..	3,48,00,000
99	Ministry of Works, Housing and Supply . . .	17,13,000	..	17,13,000
100	Supplies and Disposals . . .	79,44,000	..	79,44,000
101	Public Works . . .	9,49,39,000	7,64,000	9,57,03,000
102	Stationery and Printing . . .	2,32,69,000	..	2,32,69,000
103	Other Revenue Expenditure of the Ministry of Works, Housing and Supply . . .	19,31,000	4,000	19,35,000

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
104	Department of Atomic Energy	4,02,000	..	4,02,000
105	Atomic Energy Research	1,87,42,000	..	1,87,42,000
106	Department of Parliamentary Affairs	74,000	..	74,000
107	Lok Sabha	24,99,000	17,000	25,16,000
108	Other Revenue Expenditure of Lok Sabha	42,000	..	42,000
109	Rajya Sabha	9,76,000	20,000	9,96,000
	<i>Staff, Household and Allowances of the President</i>		7,11,000	7,11,000
110	Secretariat of the Vice-President	21,000	..	21,000
	<i>Union Public Service Commission</i>	..	12,00,000	12,00,000
111	Capital Outlay of the Ministry of Commerce and Industry	9,56,06,000	..	9,56,06,000
112	Capital Outlay of the Ministry of Community Development and Co-operation	85,64,000	..	85,64,000
113	Defence Capital Outlay	7,83,25,000	2,50,000	7,85,75,000
114	Capital Outlay of the Ministry of Education	2,49,000	..	2,49,000
115	Capital Outlay of the Ministry of External Affairs	22,55,000	..	22,55,000
116	Capital Outlay on the India Security Press	10,41,000	..	10,41,000
117	Capital Outlay on Currency and Coinage	2,46,83,000	..	2,46,83,000
118	Capital Outlay on Mints	1,62,000	..	1,62,000
119	Commututed Value of Pensions	57,79,000	31,000	58,10,000
120	Other Capital Outlay of the Ministry of Finance	16,86,87,000	..	16,86,87,000
121	Capital Outlay on Grants to States for Development	6,33,00,000	..	6,33,00,000

I No. of Vote	Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
122	Loans and Advances by the Central Government . . .	36,72,00,000	1,13,28,81,000	1,50,00,81,000
	<i>Repayment of Debt</i> . . .	..	12,59,06,39,000	12,59,06,39,000
123	Capital Outlay on Forests . . .	3,58,000	..	3,58,000
124	Purchase of Foodgrains . . .	52,50,00,000	25,000	52,50,25,000
125	Other Capital Outlay of the Ministry of Food and Agriculture . . .	15,73,09,000	1,000	15,73,10,000
126	Capital Outlay of the Ministry of Health . . .	3,03,54,000	..	3,03,54,000
127	Capital Outlay of the Ministry of Home Affairs . . .	27,74,000	..	27,74,000
128	Capital Outlay of the Ministry of Information and Broadcasting . . .	70,00,000	..	70,00,000
129	Capital Outlay on Multi-purpose River Schemes . . .	2,50,85,000	..	2,50,85,000
130	Other Capital Outlay of the Ministry of Irrigation and Power . . .	3,80,99,000	..	3,80,99,000
131	Capital Outlay of the Ministry of Labour and Employment .	35,000	..	35,000
132	Capital Outlay of the Ministry of Rehabilitation . . .	3,08,87,000	5,000	3,08,92,000
133	Capital Outlay of the Ministry of Scientific Research and Cultural Affairs . . .	91,03,000	..	91,03,000
134	Capital Outlay of the Ministry of Steel, Mines and Fuel . . .	31,93,62,000	..	31,93,62,000
135	Capital Outlay on Roads . . .	12,55,50,000	..	12,55,50,000
136	Capital Outlay on Ports . . .	95,96,000	..	95,96,000
137	Capital Outlay on Civil Aviation . . .	1,02,28,000	6,000	1,02,34,000
138	Other Capital Outlay of the Ministry of Transport and Communications . . .	4,31, <sup>37</sup> 000	..	4,31,37,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
139	Capital Outlay on Indian Posts and Telegraphs (not met from Revenue)	6,39,52,000	26,000	6,39,78,000
140	Capital Outlay on Public Works	2,37,25,000	25,000	2,37,50,000
141	Delhi Capital Outlay	2,15,45,000	5,30,000	2,20,75,000
142	Other Capital Outlay of the Ministry of Works, Housing and Supply	55,97,000	..	55,97,000
143	Capital Outlay of the Department of Atomic Energy	2,06,91,000	..	2,06,91,000
TOTAL		5,15,52,22,000	14,81,93,86,000	19,97,46,08,000

THE STATE FINANCIAL CORPORATIONS (AMENDMENT) ACT, 1962

No. 6 OF 1962

[30th March, 1962]

An Act further to amend the State Financial Corporations Act, 1951.

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

1. (1) This Act may be called the State Financial Corporations Short title (Amendment) Act, 1962. and commencement.

(2) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint.

63 of 1951. 2. In section 2 of the State Financial Corporations Act, 1951 Amendment (hereinafter referred to as the principal Act),— of section 2.

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

(c) "industrial concern" means any concern engaged or to be engaged in the manufacture, preservation or processing of goods or in mining or in the hotel industry or in the transport of passengers or goods by road or by water or in the generation or distribution of electricity or any other form of power or in the development of any contiguous area of land as an industrial estate.

*Explanation.*—The expression "processing of goods" includes any art or process for producing, preparing or making an article by subjecting any material to a manual, mechanical, chemical, electrical or any other like operation;

(ii) for clause (ff), the following clauses shall be substituted, namely:—

(ff) "State co-operative bank" shall have the meaning assigned to it in clause (f) of section 2 of the Reserve Bank of India Act, 1934;

2 of 1934.

<sup>1</sup> 16th April, 1962, vide Notification No. S.O. 1081, dated 7-4-1962, Gazette of India, Extraordinary, Part II, Sec. 3(ii), p. 803.

(ffff) "State Government", in relation to a Union territory, means the Administrator thereof;.

Amendment  
of section  
3A.

3. In section 3A of the principal Act, in clause (b) of sub-section (2), after the word and figure "section 7", the words and figure "or section 8" shall be inserted.

Amendment  
of section  
4.

4. In section 4 of the principal Act, in clause (c) of sub-section (3), after the words "insurance companies", the following shall be inserted, namely:—

"(including the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956)".

31 of 1956.

Substitution  
of new sec-  
tions for sec-  
tions 7 and  
8.

5. For sections 7 and 8 of the principal Act, the following sections shall be substituted, namely:—

Additional  
capital of  
the Finan-  
cial Corpo-  
ration and its  
borrowing  
powers.

"7. (1) The Financial Corporation may, in consultation with the Reserve Bank, issue and sell bonds and debentures carrying interest for the purpose of increasing its working capital and such bonds and debentures shall be guaranteed by the State Government as to the repayment of the principal and the payment of interest at such rate as the State Government may, on the recommendation of the Board and with the approval of the Central Government, fix at the time the bonds and debentures are issued.

(2) The Financial Corporation may, for the purposes of carrying out its functions under this Act, borrow money from the Reserve Bank—

(a) 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 the security of—

(i) 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) such bills of exchange and promissory notes as are eligible for purchase or rediscount by the Reserve Bank or as are fully guaranteed as to the repayment of the principal and payment of interest by a State Government;

(b) repayable on the expiry of a fixed period not exceeding eighteen months from the date on which the money is so borrowed, against securities of the Central Government or of any State Government of any maturity, or against bonds and debentures issued by the Financial Corporation and guaranteed by the State Government and maturing within a period not exceeding eighteen months from the date on which the money is so borrowed:

Provided that the amount borrowed by the Financial Corporation under clause (b) shall not at any time exceed in the aggregate sixty per cent. of the paid-up share capital thereof.

(3) The Financial Corporation may, for the purposes of carrying out its functions under this Act, borrow money from the State Government in consultation with the Reserve Bank on such terms and conditions as may be agreed upon.

(4) The Financial Corporation may, with the prior approval of the Reserve Bank, also borrow money from any financial institution notified in this behalf by the Central Government on such terms and conditions as may be agreed upon.

(5) The total amount of bonds and debentures issued and outstanding, the amounts borrowed by the Financial Corporation under clause (b) of sub-section (2), sub-section (3) and sub-section (4) and of the contingent liabilities of the Financial Corporation in the form of guarantees given by it or underwriting agreements entered into by it shall not at any time exceed ten times the amount of the paid-up share capital and the reserve fund of the Financial Corporation.

8. (1) The Financial Corporation may accept from the State Government or, with the prior approval of the State Government and the Reserve Bank, a local authority or any other 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 it thinks fit:

Provided that the total amount of such deposits shall not at any time exceed the paid-up share capital of the Financial Corporation.

(2) All deposits accepted under sub-section (1), other than the deposits from the State Government, shall be guaranteed by the State Government as to the repayment of the principal and the payment of interest.”.

Amendment  
of section  
10.

6. In section 10 of the principal Act,—

(i) in clause (b), the words “the Central Board of” shall be omitted;

(ii) in clause (c), the words “the Board of directors of” shall be omitted;

(iii) for clause (f), the following clause shall be substituted, namely:—

“(f) a managing director appointed by the State Government in consultation with the Reserve Bank and, except in the case of first appointment, also with the Board;”.

Substitution  
of new sec-  
tion for  
section 16.

7. For section 16 of the principal Act, the following section shall be substituted namely:—

Remunera-  
tion of  
directors.

“16. The directors other than the managing director and not being servants of the Government shall be paid such fees as may be prescribed for attending meetings of the Board and, if they are members of the Executive Committee, or any other committee appointed by the Financial Corporation, for attending meetings of such committee.”.

Amendment  
of section  
17.

8. In section 17 of the principal Act, in sub-section (1),—

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

“(c) hold office for such term not exceeding four years as the State Government may specify and be eligible for reappointment;”;

(ii) in the proviso, the words “shall hold office for such term and” shall be omitted.

15 of 1948.

Amendment  
of Section  
19.

## 9. In section 19 of the principal Act,—

(i) in sub-section (3A), for the words "the Central Board of the Reserve Bank or the Board of directors of the Industrial Finance Corporation of India", the words and figures "the Reserve Bank or the Industrial Finance Corporation of India established under the Industrial Finance Corporation Act, 1948" shall be substituted;

(ii) for sub-section (4), the following sub-sections shall be substituted, namely:—

15 of 1948.

"(4) If for any reason a director nominated under clause (a) or clause (b) or clause (c) of section 10 who is a member of the Executive Committee or any other committee is unable to attend any meeting of the Executive Committee or other committee, the State Government, the Reserve Bank or the Industrial Finance Corporation established under the Industrial Finance Corporation Act, 1948, as the case may be, may depute any other person to attend the said meeting and such person shall, for the purposes of the said meeting, be deemed to be a member of such committee.

(5) If for any reason the Chairman of the Board or the Chairman of the Executive Committee is unable to attend any meeting of the Board or, as the case may be, of the Executive Committee,—

(a) in the case of the meeting of the Board, a director, not being the managing director, authorised by the Chairman of the Board in writing shall preside at such meeting, but if the director so authorised is absent or if no such authorisation has been made, the Board may elect a director to preside at that meeting; and

(b) in the case of the meeting of the Executive Committee, a member authorised in writing by the Chairman of that Committee shall preside at that meeting, but if the member so authorised is absent or if no such authorisation has been made, the Committee may elect any of its members to preside at that meeting."

Substitution  
of new sec-  
tion for sec-  
tion 25.

Business  
which  
Financial  
Corporation  
may trans-  
act.

10. For section 25 of the principal Act, the following section shall be substituted, namely:—

"25. (1) The Financial Corporation may, subject to the provisions of this Act, carry on and transact any of the following kinds of business, namely:—

(a) guaranteeing, on such terms and conditions as may be agreed upon,—

(i) loans raised by industrial concerns which are repayable within a period not exceeding twenty years, and are floated in the public market;

(ii) loans raised by industrial concerns from scheduled banks or State co-operative banks;

(b) guaranteeing, on such terms and conditions as may be agreed upon, deferred payments due from any industrial concern in connection with its purchase of capital goods within India;

(c) underwriting of the issue of stock, shares, bonds or debentures by industrial concerns;

(d) acting as agent of the Central Government or the State Government or the Industrial Finance Corporation of India established under the Industrial Finance Corporation Act, 1948, or any other financial institution notified in this behalf by the Central Government in the transaction of any business with an industrial concern in respect of loans or advances granted, or debentures subscribed, by any one of them;

(e) receiving in consideration of the services mentioned in the preceding clauses such commission as may be agreed upon;

(f) retaining as part of its assets any stock, shares, bonds or debentures of an industrial concern which it may have to take in fulfilment of its underwriting liabilities, so however, that it disposes of the stock, shares, bonds or debentures so acquired as early as practicable, but in no case the stock, shares, bonds or debentures so acquired shall be retained beyond a period of seven years from the date of such acquisition, except with the prior permission of the Reserve Bank:

Provided that the Financial Corporation may subscribe to stock or shares of the industrial concern if such concern increases its subscribed capital by the issue of further stock

1 of 1956.

or shares in accordance with, and subject to, the provisions of section 81 of the Companies Act, 1956, but the stock or shares so subscribed shall not be retained after the stock or shares of the industrial concern take in fulfilment of its underwriting liabilities are disposed of;

(g) granting loans or advances to, or subscribing to debentures of, an industrial concern, repayable within a period not exceeding twenty years from the date on which they are granted or subscribed to, as the case may be:

Provided that nothing contained in this clause shall be deemed to preclude the Financial Corporation from granting loans or advances to, or subscribing to debentures of, an industrial concern to which may be attached an option to convert such debentures or loans into stock or shares of the industrial concern:

Provided further that the Financial Corporation may, in the exercise of such option, convert such debentures or loans into stock or shares of the industrial concern and may also subscribe to stock or shares of the industrial concern if such concern increases its subscribed capital by the issue of further stock or shares in accordance with, and subject to, the provisions of section 81 of the Companies Act, 1956;

1 of 1956.

(h) generally, the doing of such acts and things as may be incidental to, or consequential upon, the exercise of its powers or the discharge of its duties under this Act.

(2) No accommodation shall be given under clauses (a), (b) and (g) of sub-section (1) unless it is sufficiently secured by a pledge, mortgage, hypothecation, or assignment of Government or other securities, stock, shares, or secured debentures, bullion, movable or immovable property or other tangible assets in the manner prescribed by regulations or unless it is guaranteed as to the repayment of the principal and the payment of interest by the State Government, a scheduled bank or a State co-operative bank.

(3) Subject to the provisions of sub-section (5) of section 7, the aggregate of contingent liabilities of the Financial Corporation under clauses (a), (b) and (c) of sub-section (1) shall not at any time exceed twice the paid-up share capital and reserve fund of the Corporation except with the prior approval of the State Government and in consultation with the Reserve Bank but in no case shall exceed thrice the paid-up share capital and reserve fund of the Corporation."

Substitution  
of new  
section for  
section 26.

Limit of  
accommoda-  
tion.

Amendment  
of section  
27.

Amendment  
of section  
28.

Amendment  
of section  
29.

Amendment  
of section  
32.

**11.** For section 26 of the principal Act, the following section shall be substituted, namely:—

“26. The Financial Corporation shall not enter into any arrangements under clauses (a) and (g) of sub-section (1) of section 25 with any industrial concern so that the total amount outstanding against that concern in respect of all such arrangements is more than—

(i) twenty lakhs of rupees in the case of a public limited company as defined in section 3 of the Companies Act, 1956 or a co-operative society registered under the Co-operative Societies Act, 1912 or any other law relating to co-operative societies for the time being in force; and

(ii) ten lakhs of rupees in any other case.”.

**12.** In section 27 of the principal Act, in sub-section (2), the following shall be added at the end, namely:—

“and nothing in the said Act or in any such law or instrument shall, in so far as it makes in relation to a director, any provision for the holding of any share qualification, age limit, restriction on the number of directorships, retirement by rotation or removal from office, apply to any director appointed by the Financial Corporation in pursuance of this section.”.

**13.** In section 28 of the principal Act, for clauses (a) and (b), the following clauses shall be substituted, namely:—

“(a) except as provided in section 8, accept deposits;

(b) except as provided in clauses (f) and (g) of sub-section (1) of section 25, subscribe to the shares or stock of any company.”.

**14.** In section 29 of the principal Act,—

(i) in sub-section (4), for the words “charges and expenses properly incurred”, the words “charges and expenses which in the opinion of the Financial Corporation have been properly incurred” shall be substituted;

(ii) in sub-section (5), for the words “the owner of the concern”, the words “the concern” shall be substituted.

**15.** In section 32 of the principal Act, for sub-section (11), the following sub-section shall be substituted, namely:—

“(11) The functions of a district judge under this section shall be exercisable—

(a) in a presidency town, where there is a city civil court having jurisdiction, by a judge of that court and in the absence of such court, by the High Court; and

(b) elsewhere, also by an additional district judge.”.

16. In section 32A of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—  
Amendment of section 32A.

1 of 1956.

“(3) Nothing in the Companies Act, 1956 or in any other law for the time being in force or in any instrument relating to the industrial concern shall, in so far as it makes in relation to a director, any provision for the holding of any share qualification, age limit, restriction on the number of directorships, retirement by rotation or removal from office, apply to any director appointed by the Financial Corporation under this section.”.

38 of 1959.

17. In section 33 of the principal Act, in sub-section (2), for the words “or with any agency of the Reserve Bank other than a Government treasury”, the words, brackets and figures “or the State Bank of India or a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959” shall be substituted.  
Amendment of section 33.

18. In section 35 of the principal Act, in the proviso to sub-section (2), for the words, brackets and figures “under any guarantee given in pursuance of sub-section (2) of section 7”, the words and figures “section 7 or section 8” shall be substituted.  
Amendment of section 35.

19. After section 35 of the principal Act, the following section shall be inserted, namely:—  
Insertion of new section 35A.

“35A. (1) The Financial Corporation may establish a special reserve fund, to which shall be transferred such portion of the dividends accruing to the State Government and the Reserve Bank on the shares of the Financial Corporation as may be fixed by agreement between the State Government and the Reserve Bank:  
Special reserve fund.

Provided that the total amount in the said fund shall at no time exceed ten per cent. of the paid-up share capital of the Financial Corporation.

(2) No shareholder of the Financial Corporation, other than the State Government and the Reserve Bank, shall have any claim to the special reserve fund.

(3) The amount standing to the credit of the special reserve fund may be utilised by the Financial Corporation for only such purposes as are approved by the State Government and the Reserve Bank.”.

20. In section 37 of the principal Act, in the proviso to sub-section (6), for the words, brackets and figures “sub-section (2) of  
Amendment of section 37.

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section 7", the words and figures "section 7 or section 8" shall be substituted.

Insertion of  
new section  
41A.

21. After section 41 of the principal Act, the following section shall be inserted, namely:—

Protection of  
action taken  
by persons  
appointed  
under sec-  
tion 27 or  
section 32A.

"41A. No suit, prosecution or other legal proceeding shall lie against any person appointed as director, administrator, managing agent or manager by the Financial Corporation in pursuance of section 27 or section 32A for anything which is in good faith done or intended to be done by him as such director, administrator, managing agent or manager."

Amendment  
of section 43.

22. In section 43 of the principal Act,—

(i) in the first proviso,—

(a) for the words, brackets and figures "under any guarantee given in pursuance of sub-section (2) of section 7", the words and figures "section 7 or section 8" shall be substituted;

(b) for the words "or bonds", the words "bonds or deposits" shall be substituted;

(ii) in the second proviso, for the words "declared to be income-tax free", the words "and the income-tax shall be payable thereon as if it were the interest receivable on any security of a State Government issued income-tax free" shall be substituted.

Insertion of  
new section  
43A.

23. After section 43 of the principal Act, the following section shall be inserted, namely:—

Delegation  
of powers.

"43A. The Board may, by general or special order, delegate to the managing director or to any other officer of the Financial 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."

# THE INDIAN RAILWAYS (AMENDMENT) ACT, 1962

No. 7 OF 1962

[30th March, 1962]

## An Act further to amend the Indian Railways Act, 1890.

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

1. This Act may be called the Indian Railways (Amendment) Act, <sup>Short title.</sup> 1962.

<sup>9 of 1890.</sup> 2. In section 82A of the Indian Railways Act, 1890 (<sup>Amendment of section 82A.</sup> hereinafter referred to as the principal Act), in sub-section (2), for the words "ten thousand rupees", the words "twenty thousand rupees" shall be substituted.

<sup>8 of 1923.</sup> 3. For section 82H of the principal Act, the following section shall be substituted, namely:— <sup>Substitution of new section for section 82H.</sup>

"82H. (1) The right of any person to claim compensation under section 82A shall not affect the right of any such person to recover compensation payable under the Workmen's Compensation Act, 1923 or any other law for the time being in force; but no person shall be entitled to claim compensation more than once in respect of the same accident. <sup>Saving as to certain rights.</sup>

(2) Nothing in sub-section (1) shall affect the right of any person to claim compensation payable under any contract or scheme providing for payment of compensation for death or personal injury or for damage to property or any sum payable under any policy of insurance".

4. In section 126 of the principal Act, for the words "with transportation for life or with imprisonment for a term which may extend to ten years", the following shall be substituted, namely:— <sup>Amendment of section 126.</sup>

"with imprisonment for life or with rigorous imprisonment for a term which may extend to ten years:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, where a person is punished with rigorous imprisonment, such rigorous imprisonment shall,—

(a) in the case of a first conviction, be not less than three years, or

(b) in the case of a subsequent conviction, be not less than seven years.”

Amendment 5. In section 127 of the principal Act, for the words “transportation of section 127, for life”, the words “imprisonment for life” shall be substituted.

Amendment 6. In section 128 of the principal Act, for the words “with imprisonment for a term which may extend to two years”, the following shall be substituted, namely:

“with imprisonment for a term which may extend to five years:

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,—

(a) in the case of a first conviction, be not less than six months, or

(b) in the case of a subsequent conviction, be not less than two years.”

THE DOCK WORKERS (REGULATION OF EMPLOYMENT) AMENDMENT ACT, 1962

No. 8 OF 1962

[30th March, 1962]

An Act further to amend the Dock Workers (Regulation of Employment) Act, 1948.

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

1. (1) This Act may be called the Dock Workers (Regulation of Employment) Amendment Act, 1962. Short title and commencement.

(2) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint.

2. In section 2 of the Dock Workers (Regulation of Employment) Amendment Act, 1948 (hereinafter referred to as the principal Act), clause (a) of section 2 shall be re-lettered as clause (aa) thereof, and before the clause as so re-lettered, the following clause shall be inserted, namely:—

'(a) "Board" means a Dock Labour Board established under section 5A:.'

3. In section 3 of the principal Act, Amendment of section 3.

(a) in sub-section (1), after the words "the registration of dock workers", the words "and employers" shall be inserted;

(b) in sub-section (2),—

(i) in clause (c), for the words "and their registration", the words "and the registration of dock workers and employers" shall be substituted;

(ii) in clause (j), the words "whether as a body corporate or otherwise" shall be omitted.

<sup>1</sup> 1st June, 1962, vide Notification No. S.O. 1623, dated 29-5-1962, Gazette of India, Extraordinary, Part II, Sec. 3(ii), p. 1019.

36 Dock Workers (Regulation of Employment) Amendment [ACT 8]

Amendment  
of section 5.

4. In section 5 of the principal Act,—

(a) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The members of the Advisory Committee shall be appointed by the Government and shall be of such number and chosen in such manner as may be prescribed by rules made under this Act:

Provided that the Advisory Committee shall include an equal number of members representing—

(i) the Government,

(ii) the dock workers, and

(iii) the employers of dock workers, and shipping companies";

(b) sub-section (5) shall be omitted.

Insertion of  
new sections  
after section  
5.  
Dock Labour  
Boards.

5. After section 5 of the principal Act, the following sections shall be inserted, namely:—

"5A. (1) The Government may, by notification in the Official Gazette, establish a Dock Labour Board for a port or group of ports to be known by such name as may be specified in the notification.

(2) Every such Board shall be a body corporate with the name aforesaid, 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 and be sued.

(3) Every such Board shall consist of a Chairman and such number of other members as may be appointed by the Government:

Provided that every such Board shall include an equal number of members representing—

(i) the Government,

(ii) the dock workers, and

(iii) the employers of dock workers, and shipping companies.

(4) The Chairman of a Board shall be one of the members appointed to represent the Government, and nominated in this behalf by the Government.

or 1962] Dock Workers (Regulation of Employment) Amendment 37

5B. (1) A Board shall be responsible for administering the Functions of a Board. scheme for the port or group of ports for which it has been established and shall exercise such powers and perform such functions as may be conferred on it by the scheme.

(2) In the exercise of its powers and the discharge of its functions, a Board shall be bound by such directions as the Government may, for reasons to be stated in writing, give to it from time to time.

5C. (1) Every Board shall maintain proper accounts and Accounts other relevant records and prepare an annual statement of and audit. accounts, including a balance-sheet in such form as may be prescribed by rules made under this Act.

(2) The accounts of the Board shall be audited annually by the Comptroller and Auditor General of India or by such other auditors qualified to act as auditors of companies under the law for the time being in force relating to companies, as the Government may appoint.

(3) The auditors shall, at all reasonable times, have access to the books of accounts and other documents of the Board and may, for the purposes of the audit, call for such explanation and information as they may require or examine any member or officer of the Board.

(4) The auditors shall forward to the Government a copy of their report together with an audited copy of the accounts of the Board.

(5) The cost of the audit as determined by the Government shall be paid out of the funds of the Board.”.

6. After section 6 of the principal Act, the following sections shall be inserted, namely:— Insertion of new sections after section 6.

“6A. (1) The Government may, at any time, appoint any person to investigate or inquire into the working of a Board and submit a report to the Government. Power to order inquiry.

(2) The Board shall give to the person so appointed all facilities for the proper conduct of the investigation or inquiry and furnish to him such documents, accounts or information in the possession of the Board as he may require.

6B. (1) If, on consideration of the report under section 6A or otherwise, the Government is of opinion— Power to supersede a Board.

(a) that, on account of a grave emergency, a Board is unable to perform its functions, or

38 Dock Workers (Regulation of Employment) Amendment [ACT 8]

(b) that a Board has persistently made default in the discharge of its functions or has exceeded or abused its powers,

the Government may, by notification in the Official Gazette, supersede the Board for such period as may be specified in the notification:

Provided that, before issuing a notification under this sub-section on any of the grounds mentioned in clause (b), the Government shall give a reasonable opportunity 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),—

(a) all the members of the Board shall, as from the date of such publication, vacate their offices as such members;

(b) all the powers and functions which may be exercised or performed by the Board shall, during the period of supersession, be exercised or performed by such person as may be specified in the notification;

(c) all funds and other property vested in the Board shall, during the period of supersession, vest in the Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Government may—

(a) extend the period of supersession for such further period as it may consider necessary; or

(b) re-establish the Board in the manner provided in section 5-A.

6C. No act or proceeding of a Board or the Advisory Committee shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Board or the Advisory Committee, or

(b) any defect in the appointment of a person acting as a member of the Board or the Advisory Committee, or

(c) any irregularity in the procedure of the Board or the Advisory Committee not affecting the merits of the case.”.

Acts or proceeding of  
Board and  
Advisory  
Committee  
not to be in-  
valedated.

or 1962] Dock Workers (Regulation of Employment) Amendment 39

7. After section 7 of the principal Act, the following sections shall be inserted, namely:—

Insertion of  
new sections  
after section  
7.

"8. (1) The Government may, by notification in the Official Gazette, make rules to give effect to the provisions 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 composition of the Advisory Committee and Boards and the manner in which members of the Advisory Committee and the Boards shall be chosen;

(b) the term of office of, and the manner of filling casual vacancies among, the members of a Board or the Advisory Committee;

(c) the meetings of a Board and the Advisory Committee, the quorum for such meetings and the conduct of business thereat;

(d) the conditions subject to which, and the mode in which, contracts may be entered into by or on behalf of a Board;

(e) the allowances, if any, payable to the members of a Board or the Advisory Committee;

(f) the disqualifications for membership of a Board;

(g) the form in which a Board shall prepare its annual statement of accounts and the balance-sheet.

(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.

40      Dock Workers (Regulation of Employment) [ACT 8 OF 1962]  
Amendment

Saving.

9. Every Dock Labour Board established for a port or a group of ports before the commencement of the Dock Workers (Regulation of Employment) Amendment Act 1962 under a scheme made under section 4, and functioning as such immediately before such commencement shall be deemed to be a Board established under section 5A and, accordingly, all the provisions of this Act shall apply to every such Board."

## THE ESTATE DUTY (DISTRIBUTION) ACT, 1962

No. 9 OF 1962

[30th March, 1962]

An Act to provide for the distribution of the net proceeds of the estate duty among the States in pursuance of the principles of distribution formulated and the recommendations made by the Finance Commission in its report dated the 14th day of December, 1961.

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

1. This Act may be called the Estate Duty (Distribution) Act, Short title. 1962.

2. In this Act,—

Definitions.

(a) "estate duty" means the estate duty levied under the Estate Duty Act, 1953 in respect of property other than agricultural land;

(b) "State" does not include a Union territory.

3. (1) During each financial year commencing on and after the 1st day of April, 1962, the net proceeds of estate duty levied and collected during that financial year shall, after deducting therefrom a sum equal to one per cent. of the said proceeds as being attributable to Union territories, be distributed among the States in accordance with the provisions of sub-section (2).

Distribution of net proceeds of estate duty assigned to the States.

(2) Out of the total amount falling to be distributed in any financial year under sub-section (1)—

(a) the amount attributable to immovable property shall be distributed among the States in proportion to the gross value of the immovable property situated in the respective States as determined in respect of that financial year;

(b) the balance shall be distributed among the States as follows :—

State	Percentage
Andhra Pradesh	8·34
Assam	2·75
Bihar	10·78
Gujarat	4·78
Jammu and Kashmir	0·83
Kerala	3·92
Madhya Pradesh	7·51
Madras	7·80
Maharashtra	9·16
Mysore	5·46
Orissa	4·08
Punjab	4·71
Rajasthan	4·67
Uttar Pradesh	17·10
West Bengal	8·11

(3) For the purposes of this section,—

(a) “amount attributable to immovable property” means an amount which bears to the total amount distributable in any financial year under sub-section (1) the same proportion which the gross value of all immovable property situated in the States bears to the gross value of all property, movable and immovable, so situated, as determined in respect of that financial year;

(b) “gross value”, in relation to movable or immovable property, means the total value of all movable property or, as the case may be, of all immovable property, passing on the death of any person as determined by the Controller under the Estate Duty Act, 1953;

(c) “immovable property” does not include agricultural land.

**Power to make rules.**

4. (1) The Central Government may, by notification in the Official Gazette, make rules providing for the manner in which the gross value of property is to be calculated, for the time at which, and the manner in which, any payments under this Act are to be made, for the making of adjustments between one financial year and another and for any other incidental or ancillary matters.

(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.

**57 of 1957.** 5. The Estate Duty (Distribution) Act, 1957, shall, as from the 1st ~~Repeal~~ day of April, 1962, stand repealed.

THE ADDITIONAL DUTIES OF EXCISE (GOODS OF  
SPECIAL IMPORTANCE) AMENDMENT ACT, 1962

No. 10 OF 1962

[30th March, 1962]

An Act further to amend the Additional Duties of Excise  
(Goods of Special Importance) Act, 1957.

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 Additional Duties of Excise (Goods of Special Importance) Amendment Act, 1962.

Amend-  
ment of  
long title.

2. In the long title of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (hereinafter referred to as the principal <sup>Act, 1957</sup>), for the words, figures and letters "dated the 30th day of September, 1957, and to declare those goods to be of special importance in inter-State trade or commerce", the words, figures and letters "dated the 14th day of December, 1961" shall be substituted.

Amend-  
ment of  
section 6.

3. In section 6 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(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

[ACT 10 OF 1962] Additional Duties of Excise (Goods of Special Importance) Amendment

45

prejudice to the validity of anything previously done under that rule.”.

4. In the principal Act, for the Second Schedule, the following Schedule shall be substituted; namely:—

Substitution of  
new Sche-  
dule for  
Second  
Schedule.

“THE SECOND SCHEDULE

(See section 4)

1. In this Schedule “net proceeds”, as respects any financial year, means the net proceeds of the additional duties in respect of sugar, tobacco, cotton fabrics, silk fabrics, woollen fabrics and rayon or artificial silk fabrics levied and collected during that financial year.

2. During each of the financial years commencing on and after the 1st April, 1962, there shall be paid,—

(a) to the State of Jammu and Kashmir a sum equal to 1·5 per cent. of the net proceeds; and

(b) to each of the States specified in the first column of the Table—

(i) a sum equal to the amount specified against that State in the second column of the Table; and

(ii) if the total of the sums payable to all the States under the preceding provisions of this paragraph is less than 99 per cent. of the net proceeds by any amount, a further sum equal to such percentage of that amount as is specified against that State in the third column of the Table:

Provided that if during that financial year there is levied and collected in any State a tax on the sale or purchase of sugar, tobacco, cotton fabrics, silk fabrics, woollen fabrics and rayon or artificial silk fabrics by or under any law of that State, no sums shall be payable to that State under clause (a), or as the case may be, under clause (b) in respect of that financial year, unless the Central Government by special order otherwise directs.

46 Additional Duties of Excise (Goods of Special [ACT 10 of 1962]  
Importance) Amendment

TABLE

	1	2	3
(Rupees in lakhs)			
Andhra Pradesh	.	235.24	7.75
Assam	.	85.08	2.50
Bihar	.	130.16	10.00
Gujarat	.	323.45	5.40
Kerala	.	95.08	4.25
Madhya Pradesh	.	155.17	7.00
Madras	.	285.34	9.00
Maharashtra	.	637.77	10.60
Mysore	.	100.10	5.25
Orissa	.	85.10	4.50
Punjab	.	175.19	5.25
Rajasthan	.	90.10	4.00
Uttar Pradesh	.	575.81	15.50
West Bengal	.	280.41	9.00

## THE FINANCE ACT, 1962

NO. II OF 1962

[30th March, 1962]

An Act to continue for the financial year 1962-63 the existing rates of income-tax and super-tax and to provide for the continuance of certain commitments under the General Agreement on Tariffs and Trade and the discontinuance of the duty on salt for the said year.

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

1. This Act may be called the Finance Act, 1962.

Short title.

2. The provisions of section 2 of, and the First Schedule to, the Finance Act, 1961, shall apply in relation to income-tax and super-tax for the assessment year 1962-63 as they apply in relation to income-tax and super-tax for the financial year 1961-62 with the following modifications, namely:—

(i) in section 2,—

(a) for the figures "1960", "1961" and "1962", wherever they occur, the figures "1961", "1962" and "1963" shall respectively be substituted;

(b) in clause (b) of sub-section (1), for the words and figures "section 55 of the Indian Income-tax Act, 1922", the words and figures "section 95 of the Income-tax Act, 1961" shall be substituted;

(c) in clause (b) of sub-section (2), for the words "Income-tax Act", the words and figures "Indian Income-tax Act, 1922" shall be substituted;

(d) in sub-section (4), for the word and figures "section 17", the word and figures "Chapter XII" shall be substituted; and for the words "that section", the words "that Chapter" shall be substituted;

11 of 1922.  
48 of 1961.

11 of 1922.

Income-tax  
and super-  
tax.

(e) in sub-section (5), for the words and figures "section 18 of", the words, letter and figures "Part B of Chapter XVII of" shall be substituted; and for the words "at the prescribed rates", the words "at the rates in force" shall be substituted;

(f) for sub-section (6), the following sub-section shall be substituted, namely:—

"(6) For the purposes of this section, and of the rates of tax imposed thereby, the expression 'assessment year' has the meaning assigned to it in clause (9) of section 2 of the Income-tax Act; the expression 'total income' means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of that Act, and the expression 'earned income' means any income of an assessee who is an individual, Hindu undivided family, unregistered firm or other association of persons or body of individuals, whether incorporated or not, not being a company, a local authority, a registered firm or a firm assessed under clause (b) of section 183 of the said Act—

(a) which is chargeable under the head 'Salaries'; or

(b) which is chargeable under the head 'Profits and gains of business or profession' where the business or profession is carried on by the assessee or, in the case of a firm, where the assessee is a partner actively engaged in the conduct of the business or profession; or

(c) which is chargeable under the head 'Income from other sources' if it is immediately derived from personal exertion or represents a pension or superannuation or other allowance given to the assessee in respect of his past services or the past services of any deceased person; and

includes any such income which, though it is the income of another person, is included in the assessee's income under the provisions of the Income-tax Act, 1961, but does not include any such income on which tax is not payable under clause (iii) or clause (iv) or clause (v) of section 86 or clause (i) or clause (ii) of sub-section (1) of section 99 of that Act or which is exempted from tax under a notification issued under section 60 of the

11 of 1922.

43 of 1961.

Indian Income-tax Act, 1922, as continued in force by clause (l) of sub-section (2) of section 297 of the Income-tax Act, 1961.;

(ii) in the First Schedule,—

(A) for the words "other association of persons", wherever they occur, the words, brackets and figures "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" shall be substituted;

(B) in Part II—

(i) in Paragraph C, for the words, brackets, figures and letter "clause (5B) of section 2", the words, brackets and figures "clause (19) of section 2" shall be substituted;

(ii) in Paragraph D—

(1) in the first proviso, in clause (i)—

(a) in sub-clause (a), for the figures "1962", the figures "1963" shall be substituted and for the words, brackets, figures and letter "sub-section (3D) of section 18", the word and figures "section 194" shall be substituted;

(b) in sub-clause (b), for the words, brackets, figures and letter "sub-section (9) of section 23A", the word and figures "section 108" shall be substituted;

(2) in the second proviso, for the figures "1960", the figures "1961" shall be substituted;

(C) in Part III, for the word and figures "section 18", wherever they occur, the words, letter and figures "Part B of Chapter XVII" shall be substituted; for the words "at the prescribed rates", the words "at the rates in force" shall be substituted; for the word and figures "section 17", the word and figures "section 113" shall be substituted; and for the word, figures and letter "section 56A", wherever they occur, the words, brackets and figures "clause (iv) of sub-section (1) of section 99" shall be substituted.

Amendment  
of Act I of  
1949.

3. In the Indian Tariff (Amendment) Act, 1949, in sections 4 and 5, for the figures "1962", the figures "1963" shall be substituted.

Discon-  
tinuance  
of salt duty.

4. For the year beginning on the first day of April, 1962, no duty under the Central Excises and Salt Act, 1944, or the Indian Tariff Act, 1934, shall be levied in respect of salt manufactured in, or imported into, India

THE APPROPRIATION (RAILWAYS) VOTE ON  
ACCOUNT ACT, 1962

No. 12 OF 1962.

[30th March, 1962]

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of India for the service of a part of the financial year 1962-63, for the purposes of Railways.

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

1. This Act may be called the Appropriation (Railways) Vote on Short title.  
Account Act, 1962.

2. From and out of the Consolidated Fund of India there may be withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of two hundred and fifty-six crores, eighty-eight lakhs and thirty-two 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.

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 Consolida- ted Fund	Total
		Rs.	Rs.	Rs.
1	Railway Board . . .	26,70,000	..	26,70,000
2	Miscellaneous Expenditure . . .	70,62,000	75,000	71,37,000
3	Payment to Worked Lines and Others . . .	7,02,000	..	7,02,000
4	Working Expenses—Administra- tion . . .	10,04,11,000	25,000	10,04,36,000
5	Working Expenses—Repairs and Maintenance . . .	32,14,03,000	25,000	32,14,28,000
6	Working Expenses—Operating Staff . . .	19,36,11,000	25,000	19,36,36,000
7	Working Expenses—Operation (Fuel) . . .	20,65,61,000	25,000	20,65,86,000
8	Working Expenses—Operation Other than Staff & Fuel . . .	6,91,95,000	19,81,000	7,11,76,000
9	Working Expenses—Miscellane- ous Expenses . . .	7,50,72,000	1,32,000	7,52,04,000
10	Working Expenses—Labour Welfare . . .	2,95,55,000	..	2,95,55,000
11	Working Expenses—Appropria- tion to Depreciation Reserve Fund . . .	16,75,00,000	..	16,75,00,000
13	Open Line Works (Revenue)— Labour Welfare . . .	37,18,000	..	37,18,000
14	Open Line Works (Revenue)— Other than Labour Welfare . . .	2,75,20,000	13,000	2,75,33,000
15	Construction of New Lines . . .	12,89,81,000	1,13,000	12,90,94,000
16	Open Line Works—Additions . . .	89,61,69,000	2,12,000	89,63,81,000

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parlia- ment	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
17	Open Line Works—Replacements	27,83,32,000	2,44,000	27,85,76,000
18	Open Line Works—Develop- ment Fund	5,74,50,000	50,000	5,75,00,000
	TOTAL . . .	256,59,12,000	29,20,000	256,88,32,000

## THE HINDI SAHITYA SAMMELAN ACT, 1962

No. 13 OF 1962

[30th March, 1962]

An Act to declare the institution known as the Hindi Sahitya Sammelan having its head office at Allahabad to be an institution of national importance and to provide for its incorporation and matters connected therewith.

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

Short title  
and com-  
mencement.

1. (1) This Act may be called the Hindi Sahitya Sammelan Act, 1962.

(2) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint.

Declaration  
of the Hindi  
Sahitya  
Sammelan  
as an insti-  
tution of  
national im-  
portance.

2. Whereas the objects of the institution known as the Hindi Sahitya Sammelan which has its head office at Allahabad are such as to make the institution one of national importance, it is hereby declared that the institution known as the Hindi Sahitya Sammelan, is an institution of national importance.

Definitions.

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

(a) "appointed day" means the date on which this Act comes into force;

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

(c) "Sammelan" means the institution known as the Hindi Sahitya Sammelan, incorporated under this Act;

(d) "Society" means the Hindi Sahitya Sammelan which has its head office at Allahabad and is registered under the Societies Registration Act, 1860.

21 of 1860.

<sup>1</sup> 28th June, 1962, vide Notification No. S.O. 1954, dated 25-6-1962, Gazette of India, Extraordinary, Part II, Sec. 3(ii), p. 1471.

4. (1) The first members of the Sammelan and all persons who may hereafter become members thereof in accordance with the rules made in this behalf, so long as they continue to hold membership thereof, are hereby constituted a body corporate by the name of the Hindi Sahitya Sammelan.

(2) The Sammelan shall have 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.

(3) The head office of the Sammelan shall be at Allahabad.

(4) The first members of the Sammelan shall consist of persons who, immediately before the appointed day,—

(a) were special members (Vishisht Sadasya) of the Society;

(b) were life members (Sthayi Sadasya) of the Society;

(c) have been Presidents of the Society; or

(d) were awarded the Mangla Prasad Paritoshik by the Society.

5. On and from the appointed day,—

Effect of incorporation  
of Sammelan.

(a) any reference to the Society in any law (other than this Act) or in any contract or other instrument shall be deemed as a reference to the Sammelan;

(b) all property, movable or immovable, of or belonging to the Society shall vest in the Sammelan;

(c) all rights and liabilities of the Society shall be transferred to, and be the rights and liabilities of, the Sammelan; and

(d) every person employed by the Society immediately before the appointed day shall hold his office or service in the Sammelan by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held the same if this Act had not been passed, and shall continue to do so unless and until his appointment is terminated or until his tenure or terms and conditions are duly altered by the rules made in this behalf;

Provided that if the alteration so made is not acceptable to any such employee, his employment may be terminated by the Sammelan.

in accordance with the terms of the contract with the employee or, if no provision is made therein in this behalf, on payment to him by the Sammelan of compensation equivalent to three months' remuneration in the case of permanent employees and one month's remuneration in the case of other employees.

**Functions of  
Sammelan.**

6. Subject to the provisions of this Act and the rules made thereunder, the Sammelan shall perform the following functions, namely:—

- (a) to promote the spread of Hindi language and to develop it and secure its enrichment in the manner indicated in article 351 of the Constitution;
- (b) to work for the promotion, development and advancement of Hindi literature in India and foreign countries and to print and publish such literature;
- (c) to work for the promotion, development and advancement of Devanagari script, and to print and publish literature of other Indian languages in Devanagari script;
- (d) to arrange for the holding of examinations through the medium of Hindi language and to confer degrees, diplomas and other academic distinctions;
- (e) to establish and maintain schools, colleges and other institutions for instruction in Hindi language and Hindi literature and also to affiliate schools, colleges and other institutions for its examinations;
- (f) to affiliate institutions having for their object the promotion of Hindi language and Hindi literature;
- (g) to award honorary degrees and other academic distinctions to persons who may have rendered distinguished service to the cause of Hindi;
- (h) to institute and award prizes (Paritoshiks) to distinguished scholars in Hindi;
- (i) to promote and encourage research in Hindi language and Hindi literature;
- (j) to co-operate with other institutions having objects similar to those of the Sammelan, in such manner as may be conducive to their common objects;
- (k) to receive gifts, grants, donations or benefactions from the Government and to receive bequests, donations or transfers of movable and immovable properties from testators, donors or transferors, as the case may be;

(l) to deal with any property belonging to or vested in the Sammelan in such manner as the Sammelan may deem fit for advancing the objects of the Sammelan;

(m) with the approval of the Central Government, to borrow on the security of the property of the Sammelan money for the purposes of the Sammelan;

(n) to perform such other functions as may be deemed necessary by the Sammelan for advancing the cause of Hindi language and Hindi literature or as may be necessary, incidental or conducive to the performance of all or any of the above functions.

7. (1) The general superintendence, direction and management of the affairs of the Sammelan shall vest in a Governing Body, by whatever name called.

(2) The Governing Body shall consist of such number of persons not exceeding fifty-five as the Central Government may from time to time determine, of whom not more than seven shall be nominated by the Central Government from among educationists of repute or eminent Hindi scholars, and the remaining members shall be chosen in accordance with the rules made in this behalf.

(3) Subject to the provisions of this Act, the powers and functions of the Governing Body, the term of office of, and the allowances, if any, payable to, members thereof, the procedure to be followed by the Governing Body for the transaction of its business, the quorum necessary therefor and the manner of filling casual vacancies among the members thereof shall be such as may be prescribed.

8. (1) Notwithstanding anything contained in section 7, the First Governing Body and its duties. Central Government may, by notification in the Official Gazette, constitute the first Governing Body consisting of a Chairman, a Secretary, and thirteen other members to be appointed by that Government.

(2) The thirteen members referred to in sub-section (1) shall be chosen as follows:—

(i) one member to represent the Ministry of the Central Government dealing with education;

(ii) one member to represent the Ministry of the Central Government dealing with finance;

(iii) not more than three members from among the former Presidents of the Society; and

(iv) the remaining number from among persons who are, in the opinion of the Central Government, eminent in the field of Hindi language or Hindi literature.

(3) It shall be the duty of the first Governing Body of the Sammelan,—

- (a) to perform all functions of the Sammelan and to carry on the administration of the affairs of the Sammelan until a Governing Body is constituted in accordance with the provisions of section 7;
- (b) to make the rules with the approval of the Central Government;
- (c) to determine the first members of the Sammelan within the meaning of sub-section (4) of section 4;
- (d) to take all necessary steps for the constitution of the Governing Body in accordance with such rules;
- (e) to perform such other functions as it may consider necessary.

Term of office and procedure of first Governing Body and allowances payable to members thereof.

9. (1) Subject to the provisions of section 14, the members of the first Governing Body shall hold office during the pleasure of the Central Government.

(2) All questions at a meeting of the first Governing Body shall be decided by a majority of the members present thereat, and in the case of an equality of votes the Chairman or, in his absence, any other person presiding, shall have a second or casting vote.

(3) The quorum to constitute a meeting of the first Governing Body shall be three members.

(4) The members shall be paid out of the Fund of the Sammelan such allowances as may be prescribed and until so prescribed, as may be specified by the Central Government in this behalf.

First Governing Body to take over management of properties of Sammelan.

10. Notwithstanding anything to the contrary contained in any other law for the time being in force or in any order of a court, the first Governing Body shall take over the management, control and administration of all the properties vested in the Sammelan.

Determination of first members.

11. (1) The first Governing Body shall, as soon as may be, cause to be prepared, subject to such instructions, if any, as it may receive from the Central Government, a list of all persons who are to be considered as first members of the Sammelan within the meaning of sub-section (4) of section 4.

(2) The list shall be published in such manner as may be directed by the Central Government.

(3) If at any time after the publication of the list of first members under sub-section (2), it appears to the first Governing Body that the name of any person has been wrongly omitted from, or wrongly

entered in, the list, it may order such name to be inserted or omitted from that list and the list shall be amended accordingly:

Provided that no order omitting the name of any person from the list shall be made unless that person has been given a reasonable opportunity of showing cause against such omission.

(4) No persons other than the persons named in the list prepared under this section shall be considered as first members of the Sammelan within the meaning of sub-section (4) of section 4.

12. (1) The first Governing Body shall, as soon as may be, make rules in respect of the following matters, namely:—

Rules to be  
made by the  
first Govern-  
ing Body

(a) the matters relating to membership, including the qualifications and disqualifications for membership of the Sammelan;

(b) the powers and functions of the Governing Body; the term of office of, and the allowances, if any, payable to, members thereof; the procedure to be followed by the Governing Body for the transaction of its business, the quorum necessary therefor and the manner of filling casual vacancies among the members thereof;

(c) the conduct of elections for the constitution of the Governing Body and the decisions on doubts and disputes at or in connection with the said elections;

(d) the appointment of an executive committee or any other committee for carrying on the functions of the Governing Body or of the Sammelan; the constitution, powers and duties of such committees and the allowances, if any, payable to the members thereof;

(e) the procedure and the forms for the maintenance of books of accounts and other registers and statements for the purposes of this Act;

(f) the appointment, control and other conditions of service of the employees of the Sammelan;

(g) the conduct of correspondence, execution of documents and contracts for or on behalf of the Sammelan;

(h) the conduct and prosecution of suits and proceedings by or against the Sammelan;

(i) the matters relating to the affiliation of schools, colleges and other institutions with the Sammelan;

(j) the matters relating to the award of degrees and academic distinctions by the Sammelan;

(k) the matters relating to the award of prizes (Paritoshiks) by the Sammelan;

- (l) the procedure for the amendment of the rules;
- (m) such other matters as may be necessary for the performance of the functions of the Sammelan.
- (2) A draft of the rules proposed to be made under sub-section (1) shall be forwarded to the Central Government for approval and that Government may approve the same with or without modifications.
- (3) No rules made under this section shall have effect until they are approved by the Central Government and are published by the first Governing Body in such manner as the Central Government may by order direct.
- (4) A copy of the rules so made shall be laid, as soon as may be after they are made, before each House of Parliament.

**Elections to  
Governing  
Body.**

13. The first Governing Body shall, within six months of its constitution or within such further period as may be specified by the Central Government, arrange to hold elections to the Governing Body in accordance with the provisions of the rules made under section 12 and take such further steps as may be necessary for its due constitution within the period specified as aforesaid.

**Dissolution  
of first Gov-  
erning Body.**

14. On the constitution of the Governing Body under section 7 in accordance with the rules made under section 12, the first Governing Body shall cease to exist and stand dissolved.

**Fund of the  
Sammelan.**

15. (1) The Sammelan shall maintain a Fund to which shall be credited—

- (a) all fees and other charges received by the Sammelan;
- (b) all moneys received by the Sammelan by way of grants, gifts, donations, benefactions, bequests or transfers; and
- (c) all moneys received by the Sammelan in any other manner or from any other source.

(2) The Fund shall be applied towards meeting the expenses of the Sammelan in the performance of its functions under this Act, including allowances, if any, payable to the members of the Governing Body or of any Committee and the salaries and allowances, if any, of the employees of the Sammelan.

**Accounts and  
audit.**

16. (1) The Sammelan shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance-sheet in such form as may be prescribed.

(2) The accounts of the Sammelan shall, once at least in every year, be audited by a chartered accountant in practice within the

38 of 1949. meaning of the Chartered Accountants Act, 1949, to be appointed annually by the Sammelan:

Provided that no member of the Sammelan who is a chartered accountant or a person who is in partnership with such member shall be eligible for appointment as an auditor under this section.

(3) Every auditor shall, in the performance of his duties, have at all reasonable times access to the books, accounts and other documents of the Sammelan.

(4) As soon as may be practicable at the end of each year, the audited accounts of the Sammelan together with the audit report shall be forwarded to the Central Government.

17. (1) The Governing Body may, from time to time, make rules <sup>Power to make rules.</sup> for carrying out the purposes of this Act and such rules may amend or repeal the rules made under section 12.

(2) No rules made under this section shall have effect until they are approved by the Central Government and are published by the Governing Body in the prescribed manner.

18. No act of the Sammelan, or of the Governing Body, or of any other body set up under the rules made in this behalf shall be invalid merely by reason of—

(a) any vacancy therein, or defect in the constitution thereof, <sup>cies, etc.</sup> or

(b) any defect in the election, nomination or appointment of a person acting as a member thereof, or

(c) any irregularity in its procedure not affecting the merits of the case.

19. 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 provision or give such direction not inconsistent with the purposes of this Act, as appears to it to be necessary or expedient for removing the difficulty.

## THE ADVOCATES (AMENDMENT) ACT, 1962

No. 14 OF 1962

[30th March, 1962]

### An Act to amend the Advocates Act, 1961.

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 Advocates (Amendment) Act, 1962.

Amend-  
ment of  
section 24.

2. In section 24 of the Advocates Act, 1961 (hereinafter referred to as the principal Act), in sub-section (1),—

(i) in paragraph (ii) of the proviso to clause (d), for the words "is a member" the words "is or has been a member", shall be substituted;

(ii) the following *Explanation* shall be inserted at the end, namely:—

"*Explanation*.—For the purposes of this sub-section, a person shall be deemed to have obtained a degree in law from a University in India on the date on which the results of the examination for that degree are published by the University on its notice board or otherwise declaring him to have passed that examination."

Amend-  
ment of  
section 54.

3. In section 54 of the principal Act, the words "nominated and" shall be omitted.

Insertion of  
new sec-  
tions 58  
and 59.

4. In the principal Act, after section 57, the following sections shall be, and shall be deemed always to have been, inserted, namely:—

Special  
provisions  
during the  
transitional  
period.

"58. (1) Where a State Bar Council has not been constituted under this Act or where a State Bar Council so constituted is unable to perform its functions by reason of any order of a court or otherwise, the functions of that Bar Council or of any Committee thereof, in so far as they relate to the admission and enrolment of advocates, shall be performed by the High Court in accordance with the provisions of this Act.

(2) Until Chapter IV comes into force, a State Bar Council or a High Court performing the functions of a State Bar Council may enrol any person to be an advocate on a State roll, if he is qualified to be so enrolled under this Act, notwithstanding that no rules have been made under section 28 or that the rules so made have not been approved by the Bar Council of India, and every person so enrolled shall, until that Chapter comes into force, be entitled to all the rights of practice conferred on an advocate under section 14 of the Indian Bar Councils Act, 1926.

38 of 1926.

38 of 1926.

(3) Notwithstanding anything contained in this Act, every person who, immediately before the 1st day of December, 1961, was an advocate on the roll of any High Court under the Indian Bar Councils Act, 1926 or who has been enrolled as an advocate under this Act shall, until Chapter IV comes into force, be entitled as of right to practise in the Supreme Court, subject to the rules made by the Supreme Court in this behalf.

18 of 1879.  
Bombay  
Act XVII  
of 1920.

(4) Notwithstanding the repeal by sub-section (2) of section 50 of the provisions of the Legal Practitioners Act, 1879 or of the Bombay Pleaders Act, 1920, relating to the admission and enrolment of legal practitioners, the provisions of those Acts and any rules made thereunder in so far as they relate to the issue and renewal of a certificate to a legal practitioner authorising him to practise shall have effect until Chapter IV comes into force and, accordingly, every certificate issued or renewed to a legal practitioner (who is not enrolled as an advocate under this Act) which is or purports to be issued or renewed under the provisions of either of the aforesaid Acts during the period beginning with the 1st day of December, 1961 and ending with the date on which Chapter IV comes into force, shall be deemed to have been validly issued or renewed.

59. (1) 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 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. Removal of difficulties.

(2) An order under sub-section (1) may be made so as to have retrospective effect from a date not earlier than the 1st day of December, 1961.”.

Repeal. 5. (1) The Advocates (Amendment) Ordinance, 1962 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act as if this Act had commenced on the 24th day of January, 1962.

THE TELEGRAPH WIRES (UNLAWFUL POSSESSION)  
AMENDMENT ACT, 1962

No. 15 OF 1962

[30th March, 1962]

An Act further to amend the Telegraph Wires (Unlawful Possession) Act, 1950.

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

1. This Act may be called the Telegraph Wires (Unlawful Possession) Amendment Act, 1962.

2. For section 5 of the Telegraph Wires (Unlawful Possession) Act, 1950 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—  
Substitution of new section for section 5.

“5. Whoever is found or is proved to have been in possession of any quantity of telegraph wires shall, unless he proves that the telegraph wires came into his possession lawfully, be punishable,—  
Penalty for unlawful possession of telegraph wires.

(a) for the first offence, with imprisonment for a term which may extend to five years, or with fine, or with both;

(b) for the second or a subsequent offence, with imprisonment for a term which may extend to five years 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 two years and such fine shall not be less than two thousand rupees:

Provided that where a person has made a declaration under section 3 in relation to any quantity of telegraph wires, the burden of proving, in respect of the quantity so declared, that it came into his possession lawfully, shall not be on such person.”

66      Telegraph Wires (Unlawful Possession) [ACT 15 OF 1962]

**Amendment  
of section 3.**      3. In section 8 of the principal Act, after sub-section (2), the following sub-section shall be inserted, 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 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.”

THE INDIAN SUCCESSION (AMENDMENT) ACT, 1962

No. 16 OF 1962

[30th March, 1962]

An Act further to amend the Indian Succession Act, 1925.

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

1. This Act may be called the Indian Succession (Amendment) Act, 1962.

2. In section 211 of the Indian Succession Act, 1925 (hereinafter referred to as the principal Act), in sub-section (2), for the words "or Jaina", the words "Jaina or Parsi" shall be substituted.

3. In section 212 of the principal Act, in sub-section (2), for the words "or Indian Christian", the words "Indian Christian or Parsi" shall be substituted.

4. In section 213 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) This section shall not apply in the case of wills made by Muhammadans, and shall only apply—

(i) in the case of wills made by any Hindu, Buddhist, Sikh or Jaina where such wills are of the classes specified in clauses (a) and (b) of section 57; and

(ii) in the case of wills made by any Parsi dying after the commencement of the Indian Succession (Amendment) Act, 1962, where such wills are made within the local limits of the ordinary civil jurisdiction of the High Courts at Calcutta, Madras and Bombay, and where such wills are made outside those limits, in so far as they relate to immovable property situate within those limits."

## THE AIR CORPORATIONS (AMENDMENT) ACT, 1962

No. 17 OF 1962

[30th March, 1962]

An Act further to amend the Air Corporations Act, 1953.

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 Air Corporations (Amendment) Act, 1962.

**Amendment of section 18.** 2. In clause (d) of the proviso to sub-section (1) of section 18 of the Air Corporations Act, 1953 (hereinafter referred to as the ~~27 of 1953.~~ principal Act), the word “; or” shall be inserted at the end and after the clause as so amended, the following clause shall be inserted, namely:—

“(e) to operate, with the previous permission of the Central Government for such period and subject to such terms and conditions as that Government may determine, any scheduled air transport service as aforesaid which is not provided by either of the Corporations or their associates.”.

**Amendment of section 30.** 3. Section 30 of the principal Act shall be re-numbered as sub-section (1) thereof and,—

(a) in the sub-section as so re-numbered, for the words “As soon as may be after the commencement of this Act, the Central Government may cause to be constituted”, the words “The Central Government may, from time to time, by notification in the Official Gazette, constitute” shall be substituted;

(b) after the sub-section as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) If at any time the Central Government, is of opinion that the continued existence of an Air Transport Council is not necessary, it may, by notification in the Official Gazette, declare that the Air Transport Council shall be dissolved with effect from such date as may be specified in the notification, and thereupon the Air Transport Council shall be deemed to be dissolved, accordingly.”.

4. In sub-section (1) of section 36 of the principal Act, for the Amendment words "three months", the words "two months" shall be substituted. <sup>of section 36.</sup>

5. For sub-section (3) of section 44 of the principal Act, the Amendment following sub-section shall be substituted, namely:— <sup>of section 44.</sup>

"(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 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."

6. In sub-section (2) of section 45 of the principal Act, for clause (e), the following clause shall be substituted, namely:— <sup>Amendment of section 45.</sup>

"(e) the grant of refund in respect of any unused tickets and the issue of passes free of cost or at concessional rates;"

7. (1) With effect from such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, specify, the Corporation established under section 3 of the principal Act known as "Air India International" shall be renamed as "Air India". <sup>Change of name of "Air India International".</sup>

(2) The change of name of "Air India International" by sub-section (1) shall not affect any rights and obligations of that Corporation or render defective any legal proceedings by or against it, and any legal proceedings which might have been continued or commenced by or against that Corporation by its former name may be continued or commenced by or against it, by its new name.

8. As from the commencement of this Act, the Air Transport Council constituted under section 30 of the principal Act and in existence at such commencement shall stand dissolved. <sup>of Air Transport Council.</sup>

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<sup>1</sup> 8th June, 1962, vide S.O. 1676, dated 23-5-1962, Gazette of India, Part II, Sec. 3 (ii), p. 2019.

THE APPROPRIATION (RAILWAYS) NO. 2 ACT, 1962  
No. 18 OF 1962

[15th May, 1962]

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 1962-63 for the purposes of Railways.

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 Appropriation (Railways) No. 2 Act, 1962.

Issue of Rs.  
1,143,80,  
55,000 out  
of the Con-  
solidated  
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 [inclusive of the sums specified in column 3 of the Schedule to the Appropriation (Railways) Vote on Account Act, 1962] to the sum of one thousand, one hundred and forty-three crores, eighty lakhs and fifty-five 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.

**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.	
1	Railway Board . . .	1,08,54,000		1,08,54,000
2	Miscellaneous Expenditure . . .	2,80,73,000	3,00,000	2,83,73,000
3	Payments to Worked Lines and Others . . .	28,08,000	..	28,08,000
4	Working Expenses—Adminis- tration . . .	41,92,45,000	1,00,000	41,93,45,000
5	Working Expenses—Repairs and Maintenance . . .	133,17,52,000	1,00,000	133,18,52,000
6	Working Expenses—Operat- ing Staff . . .	81,43,88,000	1,00,000	81,44,88,000
7	Working Expenses—Opera- tion (Fuel) . . .	82,68,58,000	1,00,000	83,69,58,000
8	Working Expenses—Opera- tion Other than Staff and Fuel . . .	27,89,08,000	79,24,000	28,68,32,000
9	Working Expenses—Mis- cellaneous Expenses . . .	30,10,88,000	5,28,000	30,16,16,000
10	Working Expenses—Labour Welfare . . .	12,29,96,000	..	12,29,96,000
11	Working Expenses—Approp- riation to Depreciation Re- serve Fund . . .	67,00,00,000	..	67,00,00,000
12	Payments to General Re- venues . . .	81,85,34,000	..	81,85,34,000
13	Open Line Works (Revenue)— Labour Welfare . . .	1,48,71,000	..	1,48,71,000
14	Open Line Works (Revenue)— Other than Labour Welfare	11,00,79,000	50,000	11,01,29,000

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
15	Construction of New Lines	51,59,22,000	4,50,000	51,63,72,000
16	Open Line Works—Addi- tions . . . . .	3,57,89,69,000	19,23,000	3,58,08,92,000
17	Open Line Works—Replace- ments . . . . .	1,11,79,63,000	9,75,000	1,11,89,38,000
18	Open Line Works—Develop- ment Fund . . . . .	22,98,00,000	2,00,000	23,00,00,000
20	Appropriation to Develop- ment Fund . . . . .	23,21,97,000	..	23,21,97,000
GRAND TOTAL		11,42,53,05,000	1,27,50,000	11,43,80,55,000

## THE APPROPRIATION (No. 2) ACT, 1962

No. 19 OF 1962

[20th June, 1962]

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 1962-63.

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

5 of 1962.

1. This Act may be called the Appropriation (No. 2) Act, 1962. 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 [inclusive of the sums specified in column 3 of the Schedule to the Appropriation (Vote on Account) Act, 1962] to the sum of seven thousand, nine hundred and fifty-six crores, forty-three lakhs and seventy-four 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.  
Issue of  
Rs. 79,56,  
43,74,000  
out of the  
Consolidat-  
ed Fund of  
India for  
the year  
1962-63.
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 Consolidated Fund	Total
1	Ministry of Commerce and Industry	78,69,000	..	78,69,000
2	Industries	20,75,45,000	..	20,75,45,000
3	Salt	86,62,000	..	86,62,000
4	Commercial Intelligence and Statistics	93,90,000	..	93,90,000
5	Other Revenue Expenditure of the Ministry of Commerce and Industry	3,45,59,000	5,000	3,45,64,000
6	Ministry of Community Development and Co-operation	32,28,000	..	32,28,000
7	Community Development Projects, National Extension Service and Co-operation	3,76,43,000	..	3,76,43,000
8	Ministry of Defence	46,75,000	..	46,75,000
9	Defence Services, Effective—Army	2,45,66,33,000	10,00,000	2,45,76,33,000
10	Defence Services, Effective—Navy	20,09,92,000	50,000	20,10,42,000
11	Defence Services, Effective—Air Force	79,91,06,000	50,000	79,91,56,000
12	Defence Services, Non-effective	21,00,00,000	50,000	21,00,50,000
13	Ministry of Education	46,54,000	..	46,54,000
14	Education	17,94,24,000	..	17,94,24,000
15	Other Revenue Expenditure of the Ministry of Education	2,95,33,000	..	2,95,33,000
16	Tribal Areas	10,88,65,000	..	10,88,65,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	
17	Naga Hills-Tuensang Area	4,22,42,000	..	4,22,42,000
18	External Affairs	14,65,55,000	..	14,65,55,000
19	State of Pondicherry	4,45,18,000	14,000	4,45,32,000
20	Dadra and Nagar Haveli Area	26,33,000	..	26,33,000
21	Goa, Daman and Diu	5,27,71,000	..	5,27,71,000
22	Other Revenue Expenditure of the Ministry of External Affairs	4,80,24,000	..	4,80,24,000
23	Ministry of Finance	1,80,32,000	..	1,80,32,000
24	Customs	4,00,88,000	46,000	4,01,34,000
25	Union Excise Duties	9,82,16,000	44,000	9,82,60,000
26	Taxes on Income including Corporation tax, etc.	6,22,34,000	1,42,000	6,23,76,000
27	Stamps	2,74,81,000	..	2,74,81,000
28	Audit	12,42,88,000	23,12,000	12,66,00,000
29	Currency and Coinage	17,83,75,000	..	17,83,75,000
30	Mint	2,56,39,000	..	2,56,39,000
31	Pensions and Other Retirement benefits	4,99,98,000	14,99,000	5,14,97,000
32	Territorial and Political Pen- sions	24,76,000	..	24,76,000
33	Opium	5,31,89,000	..	5,31,89,000
34	Other Revenue Expenditure of the Ministry of Finance	52,86,94,000	..	52,86,94,000
35	Planning Commission	95,23,000	..	95,23,000
36	Grants-in-aid to States	1,55,88,05,000	68,42,89,000	2,24,30,94,000
37	Miscellaneous Adjustments between the Central and State Governments	25,45,000	..	25,45,000
38	Pre-partition Payments	11,55,000	18,36,000	29,91,000

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
	CHARGED.—Interest on Debt and Other Obligations and Reduction or Avoidance of Debt	..	2,47,90,13,000	2,47,90,13,000
	CHARGED.—Payments of State's Share of Union Excise Duties	..	1,14,36,37,000	1,14,36,37,000
39	Ministry of Food and Agriculture	82,08,000	..	82,08,000
40	Agriculture	3,73,46,000	..	3,73,46,000
41	Agricultural Research	5,42,69,000	..	5,42,69,000
42	Animal Husbandry	1,10,28,000	..	1,10,28,000
43	Forest	90,07,000	..	90,07,000
44	Other Revenue Expenditure of the Ministry of Food and Agriculture	21,01,39,000	8,87,000	21,10,26,000
45	Ministry of Health	18,29,000	..	18,29,000
46	Medical and Public Health	9,89,71,000	..	9,89,71,000
47	Other Revenue Expenditure of the Ministry of Health	1,16,13,000	..	1,16,13,000
48	Ministry of Home Affairs	3,87,03,000	..	3,87,03,000
49	Cabinet	39,30,000	..	39,30,000
50	Zonal Councils	2,35,000	..	2,35,000
51	Administration of Justice	2,80,000	21,36,000	24,16,000
52	Police	7,11,60,000	..	7,11,60,000
53	Census	93,67,000	..	93,67,000
54	Statistics	2,08,53,000	..	2,08,53,000
55	Privy Purses and Allowances of Indian Rulers	5,49,000	5,18,00,000	5,23,49,000
56	Delhi	16,06,26,000	10,000	16,06,36,000
57	Himachal Pradesh	11,53,89,000	..	11,53,89,000
58	Andaman and Nicobar Islands	3,10,63,000	..	3,10,63,000
59	Manipur	4,68,80,000	..	4,68,80,000

OF 1962]

## Appropriation (No. 2)

77

I No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
60	Tripura . . .	7,33,14,000	..	7,33,14,000
61	Laccadive, Minicoy and Amin-divi Islands . . .	34,91,000	..	34,91,000
62	Other Revenue Expenditure of the Ministry of Home Affairs . . .	1,11,33,000	..	1,11,33,000
63	Ministry of Information and Broadcasting . . .	16,17,000	..	16,17,000
64	Broadcasting . . .	5,70,53,000	..	5,70,53,000
65	Other Revenue Expenditure of the Ministry of Information and Broadcasting . . .	4,19,35,000	..	4,19,35,000
66	Ministry of Irrigation and Power . . .	27,44,000	..	27,44,000
67	Multi-purpose River Schemes . . .	1,22,62,000	..	1,22,62,000
68	Other Revenue Expenditure of the Ministry of Irrigation and Power . . .	3,31,91,000	..	3,31,91,000
69	Ministry of Labour and Employment . . .	27,73,000	..	27,73,000
70	Chief Inspector of Mines . . .	24,43,000	..	24,43,000
71	Labour and Employment . . .	8,53,59,000	..	8,53,59,000
72	Other Revenue Expenditure of the Ministry of Labour and Employment . . .	1,08,000	..	1,08,000
73	Ministry of Law . . .	45,30,000	..	45,30,000
74	Elections . . .	1,68,31,000	..	1,68,31,000
75	Other Revenue Expenditure of the Ministry of Law . . .	3,24,000	..	3,24,000
76	Ministry of Mines and Fuel . . .	22,03,000	..	22,03,000
77	Geological Survey . . .	3,64,62,000	..	3,64,62,000
78	Other Revenue Expenditure of the Ministry of Mines and Fuel . . .	10,56,17,000	..	10,56,17,000
79	Ministry of Scientific Research and Cultural Affairs . . .	39,08,000	..	39,08,000

1 No. of Vote	2 Services, and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	
80	Archaeology . . .	1,25,06,000	..	Rs. 1,25,06,000
81	Survey of India . . .	3,30,73,000	..	3,30,73,000
82	Botanical Survey . . .	29,95,000	..	29,95,000
83	Zoological Survey . . .	24,95,000	..	24,95,000
84	Scientific Research and Cultural Affairs . . .	19,84,79,000	..	19,84,79,000
85	Other Revenue Expenditure of the Ministry of Scientific Research and Cultural Affairs . . .	69,99,000	..	69,99,000
86	Ministry of Steel and Heavy Industries . . .	18,30,000	..	18,30,000
87	Other Revenue Expenditure of the Ministry of Steel and Heavy Industries . . .	38,90,55,000	..	38,90,55,000
88	Ministry of Transport and Communications . . .	1,02,86,000	..	1,02,86,000
89	Meteorology . . .	2,12,00,000	..	2,12,00,000
90	Central Road Fund . . .	4,50,92,000	..	4,50,92,000
91	Communications (including National Highways) . . .	7,56,67,000	..	7,56,67,000
92	Mercantile Marine . . .	83,63,000	..	83,63,000
93	Lighthouses and Lightships . . .	97,04,000	..	97,04,000
94	Aviation . . .	5,65,42,000	..	5,65,42,000
95	Overseas Communications Service . . .	1,60,67,000	..	1,60,67,000
96	Other Revenue Expenditure of the Ministry of Transport and Communications . . .	3,16,96,000	..	3,16,96,000
97	Indian Posts and Telegraphs Department (including Working expenses) . . .	82,52,73,000	60,000	82,53,33,000
98	Posts and Telegraphs Dividend to General Revenues and Appropriations to Reserve Funds . . .	13,92,00,000	..	13,92,00,000
99	Ministry of Works, Housing and Supply . . .	96,22,000	..	96,22,000

I No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
100	Supplies and Disposals . . .	Rs. 3,17,76,000	Rs. ..	Rs. 3,17,76,000
101	Public Works . . .	37,97,58,000	30,54,000	38,28,12,000
102	Stationery and Printing . . .	9,30,78,000	..	9,30,78,000
103	Expenditure on Displaced Persons . . .	9,58,58,000	1,25,000	9,59,83,000
104	Other Revenue Expenditure of the Ministry of Works, Hous- ing and Supply . . .	77,26,000	19,000	77,45,000
105	Department of Atomic Ener- gy . . .	16,07,000	..	16,07,000
106	Atomic Energy Research . . .	7,49,69,000	..	7,49,69,000
107	Department of Parliamentary Affairs . . .	2,95,000	..	2,95,000
108	Lok Sabha . . .	99,96,000	67,000	1,00,63,000
109	Other Revenue Expenditure of Lok Sabha . . .	42,000	..	42,000
110	Rajya Sabha . . .	39,03,000	79,000	39,82,000
	CHARGED.—Staff, Household and Allowances of the President .	..	28,45,000	28,45,000
III	Secretariat of the Vice-President	82,000	..	82,000
	CHARGED.—Union Public Ser- vice Commission . . .	..	48,00,000	48,00,000
112	Capital Outlay of the Ministry of Commerce and Industry .	8,22,23,000	..	8,22,23,000
113	Capital Outlay of the Ministry of Community Development and Co-operation . . .	3,42,56,000	..	3,42,56,000
114	Defence Capital Outlay . . .	32,83,00,000	10,00,000	32,93,00,000
115	Capital Outlay of the Ministry of Education . . .	9,97,000	..	9,97,000
116	Capital Outlay of the Ministry of External Affairs . . .	90,20,000	..	90,20,000
117	Capital Outlay on the India Security Press . . .	41,66,000	..	41,66,000
118	Capital Outlay on Currency and Coinage . . .	9,87,31,000	..	9,87,31,000

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
119	Capital Outlay on Mints . . .	6,47,000	..	6,47,000
120	Commuted Value of Pensions . . .	2,31,18,000	1,22,000	2,32,40,000
121	Other Capital Outlay of the Ministry of Finance . . .	67,47,49,000	..	67,47,49,000
122	Capital Outlay on Grants to States for Development . . .	25,32,00,000	..	25,32,00,000
123	Loans and Advances by the Central Government . . .	1,36,45,06,000	4,53,15,23,000	5,89,60,29,000
	CHARGED.— <i>Repayment of Debts</i>	..	50,36,25,57,000	50,36,25,57,000
124	Capital Outlay on Forests . . .	14,31,000	..	14,31,000
125	Purchase of Foodgrains . . .	1,94,30,81,000	1,00,000	1,94,31,81,000
126	Other Capital Outlay of the Ministry of Food and Agriculture . . .	62,92,38,000	5,000	62,92,43,000
127	Capital Outlay of the Ministry of Health . . .	12,14,15,000	..	12,14,15,000
128	Capital Outlay of the Ministry of Home Affairs . . .	1,10,95,000	..	1,10,95,000
129	Capital Outlay of the Ministry of Information and Broadcasting . . .	2,80,00,000	..	2,80,00,000
130	Capital Outlay on Multi-purpose River Schemes . . .	10,03,41,000	..	10,03,41,000
131	Other Capital Outlay of the Ministry of Irrigation and Power . . .	15,23,97,000	..	15,23,97,000
132	Capital Outlay of the Ministry of Labour and Employment . . .	1,41,000	..	1,41,000
133	Capital Outlay of the Ministry of Mines and Fuel . . .	62,19,05,000	..	62,19,05,000
134	Capital Outlay of the Ministry of Scientific Research and Cultural Affairs . . .	3,64,10,000	..	3,64,10,000
135	Capital Outlay of the Ministry of Steel and Heavy Industries . . .	95,57,43,000	..	95,57,43,000
136	Capital Outlay on Roads . . .	50,22,00,000	..	50,22,00,000

I No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Conso- lidated Fund	Total
		Rs.	Rs.	Rs.
137	Capital Outlay on Ports	3,83,82,000	..	3,83,82,000
138	Capital Outlay on Civil Aviation	4,09,13,000	25,000	4,09,38,000
139	Other Capital Outlay of the Ministry of Transport and Communications	11,04,11,000	..	11,04,11,000
140	Capital Outlay on Indian Posts and Telegraphs (not met from Revenue)	25,58,09,000	1,03,000	25,59,12,000
141	Capital Outlay on Public Works	9,49,00,000	1,00,000	9,50,00,000
142	Delhi Capital Outlay	8,61,80,000	21,20,000	8,83 00,000
143	Other Capital Outlay of the Ministry of Works, Housing and Supply	14,59,39,000	5,000	14,59,44,000
144	Capital Outlay of the Department of Atomic Energy	8,27,65,000	..	8,27,65,000
GRAND TOTAL		20,28,68,45,000	59,27,75,29,000	70,56,43,74,000

## THE FINANCE (No. 2) ACT, 1962

No. 20 OF 1962

[22nd June, 1962]

An Act to give effect to the financial proposals of the Central Government for the financial year 1962-63.

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

Short title  
and com-  
mencement.

1. (1) This Act may be called the Finance (No. 2) Act, 1962.

(2) Save as otherwise provided in this Act, sections 3 to 14 inclusive shall be deemed to have come into force on the 1st day of April, 1962 and sub-section (1) of section 16 and section 18 shall be deemed to have come into force on the 23rd day of April, 1962.

Income-tax  
and Super-  
tax.

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, 1962,—

(a) income-tax shall be charged at the rates specified in Part I 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; and

(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, 1962,—

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head

14 of 1961.

"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 Act, 1961, on his total income the same proportion as the amount of such inclusion bears to his total income;

11 of 1922.

(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 (2) of section 18 of the Indian Income-tax Act, 1922, 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 Act, 1961, on his total income the same proportion as the amount of such inclusion bears to his total income.

14 of 1961.

(3) In making any assessment for the assessment year commencing on the 1st day of April, 1962, 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—

31 of 1956.

(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) 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 specified in that Chapter, as the case may be.

(5) (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 for the assessment year commencing on the 1st day of April, 1962, 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) The Central Board of Revenue may make rules for computing the amount of such profits and gains.

(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—

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

(ii) the expression "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the said Act; and

(iii) the expression "earned income" means any income of an assessee who is an individual, Hindu undivided family, unregistered firm or other association of persons or body of individuals, whether incorporated or not, not being a company, a local authority, a registered firm or a firm assessed under clause (b) of section 183 of the said Act—

(a) which is chargeable under the head "Salaries"; or

(b) which is chargeable under the head "Profits and gains of business or profession" where the business or profession is carried on by the assessee or, in the case of a firm, where the assessee is a partner actively engaged in the conduct of the business or profession; or

(c) which is chargeable under the head "Income from other sources" if it is immediately derived from personal exertion or represents a pension or superannuation or other allowance given to the assessee in respect of the past services of any deceased person; and

includes any such income which, though it is the income of another person, is included in the assessee's income under the provisions of the Income-tax Act, 1961, but does not include 43 of 1961, any such income on which tax is not payable under clause (iii) or clause (v) of section 86 or clause (i) or clause (ii) of sub-section (1) of section 99 of that Act or which is exempted from tax under a notification issued under section 60 of the Indian Income-tax Act, 1922, as continued in force by clause (l) of sub-section (2) of section 297 of the Income-tax Act, 1961.

11 of 1922.  
43 of 1961.

3. In section 2 of the Income-tax Act, after clause (42), the following clause shall be inserted, namely:—

Amend-  
ment of  
section 2.

“(42A) ‘short-term capital asset’ means a capital asset held by an assessee for not more than twelve months immediately preceding the date of its transfer.

*Explanation.*—(i) In determining the period for which any capital asset is held by the assessee—

(a) in the case of a share held in a company in liquidation, there shall be excluded the period subsequent to the date on which the company goes into liquidation;

(b) in the case of a capital asset which becomes the property of the assessee in the circumstances mentioned in clauses (i) to (iii) of section 49, there shall be included the period for which the asset was held by the previous owner referred to in the said section.

(ii) In respect of capital assets other than those mentioned in clause (i), the period for which any capital asset is held by the assessee shall be determined subject to any rules which the Board may make in this behalf.”.

4. In section 37 of the Income-tax Act, in sub-section (2), for the figures and notations “ $\frac{3}{4}\%$ ” and “ $\frac{1}{2}\%$ ”, the figures and notations “ $\frac{1}{2}\%$ ” and “ $\frac{1}{4}\%$ ” shall, respectively, be substituted.

5. For sections 70 and 71 of the Income-tax Act, the following sections shall be substituted, namely:—

Substitu-  
tion of  
new sec-  
tions for  
sections  
70 and 71.  
Set off of  
loss from  
one source  
against in-  
come from  
another  
source  
under the  
same head  
of income.

“70. (1) Save as otherwise provided in this Act, where the net result for any assessment year in respect of any source falling under any head of income other than ‘Capital gains’ is a loss, the assessee shall be entitled to have the amount of such loss set off against his income from any other source under the same head.

(2) (i) Where the result of the computation made for any assessment year under sections 48 to 55 in respect of any short-term capital asset is a loss, the assessee shall be entitled to have the amount of such loss set off against the income, if any, as arrived at under a similar computation made for the assessment year in respect of any other capital asset.

(ii) Where the result of the computation made for any assessment year under sections 48 to 55 in respect of any capital asset other than a short-term capital asset is a loss, the assessee shall be entitled to have the amount of such loss set off against

**Set off of loss from one head against income from another.**

the income, if any, as arrived at under a similar computation made for the assessment year in respect of any other capital asset not being a short-term capital asset.

71. (1) Where in respect of any assessment year the net result of the computation under any head of income other than 'Capital gains' is a loss and the assessee has no income under the head 'Capital gains', he shall, subject to the provisions of this Chapter, be entitled to have the amount of such loss set off against his income, if any, assessable for that assessment year under any other head.

(2) Where in respect of any assessment year the net result of the computation under any head of income other than 'Capital gains' is a loss and the assessee has income assessable under the head 'Capital gains', such loss may, subject to the provisions of this Chapter, be set off against the income, if any, of the assessee assessable for that assessment year under any other head including income from capital gains relating to short-term capital assets as well as other capital assets or, if the assessee so desires, shall be set off only against his income, if any, assessable under any head of income other than 'Capital gains'.".

**Amend-  
ment of  
section 72.**

6. In section 72 of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Where for any assessment year, the net result of the computation under the head 'Profits and gains of business or profession' is a loss to the assessee, not being a loss sustained in a speculation business, and such loss cannot be or is not wholly set off against income under any head of income in accordance with the provisions of section 71, so much of the loss as has not been so set off or, where the assessee has income only under the head 'Capital gains' and has exercised the option under sub-section (2) of that section or where he has no income under any other head, the whole loss shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and—

(i) it shall be set off against the profits and gains, if any, of any business or profession carried on by him and assessable for that assessment year:

Provided that the business or profession for which the loss was originally computed continued to be carried on by him in the previous year relevant for that assessment year; and

(ii) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on.".

7. For section 74 of the Income-tax Act, the following section shall be substituted, namely:—

Substitution of  
new sec-  
tion for  
section 74.

"74. (1) (a) Where in respect of any assessment year, the net result of the computation under the head 'Capital gains' is a loss, such loss shall, subject to the other provisions of this Chapter, be dealt with as follows:—

(i) such portion of the net loss as relates to short-term capital assets shall be carried forward to the following assessment year and set off against the capital gains, if any, relating to short-term capital assets assessable for that assessment year and, if it cannot be so set off, the amount thereof not so set off shall be carried forward to the following assessment year and so on;

(ii) such portion of the net loss as relates to capital assets other than short-term capital assets shall be carried forward to the following assessment year and set off against the capital gains, if any, relating to capital assets other than short-term capital assets assessable for that assessment year and, if it cannot be so set off, the amount thereof not so set off shall be carried forward to the following assessment year and so on:

Provided that where, in the case of any assessee not being a company, the net loss computed in respect of such capital assets for any assessment year does not exceed five thousand rupees, it shall not be carried forward under this section.

11 of 1922.

(b) Notwithstanding anything contained in the Indian Income-tax Act, 1922, any loss computed under the head 'Capital gains' in respect of the assessment year commencing on the 1st day of April, 1961, or any earlier assessment year which is carried forward in accordance with the provisions of sub-section (2B) of section 24 of that Act, shall be dealt with in the assessment year commencing on the 1st day of April, 1962, or any subsequent assessment year as follows:—

(i) in so far as it relates to short-term capital assets, it shall be carried forward and set off in accordance with the provisions of sub-clause (i) of clause (a) and sub-section (2); and

(ii) in so far as it relates to capital assets other than short-term capital assets, it shall be carried forward and set off in accordance with the provisions of sub-clause (ii) of clause (a) and sub-section (2).

(2) (a) No loss referred to in sub-clause (i) of clause (a) of sub-section (1) or sub-clause (i) or sub-clause (ii) of clause (b) of that sub-section shall be carried forward under this section for more than eight assessment years immediately succeeding the assessment year for which the loss was first computed under this Act or, as the case may be, the Indian Income-tax Act, 1922.

11 of 1922.

(b) No loss referred to in sub-clause (ii) of clause (a) of sub-section (1) shall be carried forward under this section for more than four assessment years immediately succeeding the assessment year for which the loss was first computed under this Act.”.

**8. In section 87 of the Income-tax Act,—**

(i) in sub-section (1), after clause (e), the following clause shall be inserted, namely:—

“(f) where the assessee is an individual, any sums deposited, in the previous year by the assessee out of his income chargeable to tax, in a ten-year account or a fifteen-year account under the Post Office Savings Bank (Cumulative Time Deposits) Rules, 1959, as amended from time to time.”;

(ii) in sub-section (3),—

(a) in clause (ii), for the words “eight thousand rupees”, the words “ten thousand rupees” shall be substituted;

(b) in clause (iii), for the words “sixteen thousand rupees”, the words “twenty thousand rupees” shall be substituted.

**Amend-  
ment of  
section 88.** 9. In section 88 of the Income-tax Act, to sub-section (3), the following proviso shall be added, namely:—

“Provided that in respect of any such sums paid during any previous year relevant to the assessment year commencing on the 1st day of April, 1963 or any subsequent assessment year, this sub-section shall have effect as if for the words ‘seven and a half per cent.’ and the words ‘one hundred and fifty thousand rupees’, the words ‘ten per cent.’ and ‘two hundred thousand rupees’ had been, respectively, substituted.”.

**Amend-  
ment of  
section 109.** 10. In section 109 of the Income-tax Act, in clause (iii), for the figures and notations “50%” and “65%”, wherever they occur, the figures and notations “45%” and “60%” shall, respectively, be substituted.

**Substitution  
of new sec-  
tions for  
sections 114  
and 115.** 11. For sections 114 and 115 of the Income-tax Act, the following sections shall be substituted, namely:—

"114. Where the total income of an assessee, not being a company, includes any income chargeable under the head 'Capital gains', the tax payable by him on his total income shall be—

(a) the amount of income-tax and super-tax payable on the total income as reduced by the amount of such inclusion, and by the amount of compensation or other payment, if any, referred to in clause (ii) of section 28, had the total income so reduced been his total income; *plus*

(b) (i) the amount of income-tax and super-tax calculated on the amount of the net capital gains relating to short-term capital assets, if any, included in the total income at the average rate of income-tax and the average rate of super-tax respectively, which would have been applicable to the total income if the amount of the net capital gains, if any, relating to capital assets other than short-term capital assets and the amount of compensation or other payment aforesaid, if any, had not formed part of it; *plus*

(ii) the amount of income-tax and super-tax calculated on the amount of the net capital gains, if any, relating to capital assets other than short-term capital assets, at the average rate of income-tax and the average rate of super-tax respectively, which would have been applicable to the total income, if the net capital gains, if any, relating to short-term capital assets and the amount of compensation or other payment aforesaid, if any, had not formed part of it; or the amount of income-tax calculated at the rate of 25 per cent. on the amount of the net capital gains relating to capital assets other than short-term capital assets included in the total income, whichever is less:

Provided that—

(i) where the total income does not exceed the sum of ten thousand rupees, the amount payable under sub-clause (ii) of clause (b) shall be nil; and

(ii) in no case shall the amount payable under sub-clause (ii) of clause (b) exceed one-half of the amount, if any, by which the amount of capital gains relating to capital assets other than short-term capital assets exceeds the sum of five thousand rupees;

*plus*

(c) the tax on such compensation or other payment aforesaid, if any, computed in accordance with the provisions of clause (iii) of section 112.

**Tax on capital gains in case of companies**

115. Where the total income of a company includes any income chargeable under the head 'Capital gains' (whether such gains relate to short-term capital assets or to other capital assets), the tax payable by it shall be—

- (a) the amount of income-tax with which it is chargeable on its total income;
- (b) the amount of super-tax equal to the aggregate of the amount of super-tax calculated at the rate of five per cent. on the amount of the capital gains relating to capital assets other than short-term capital assets included in the total income and the amount of super-tax with which it would be chargeable had its total income been reduced by the amount of such aforesaid capital gains.”.

**Amendment of Act 27 of 1957.**

12. In the Wealth-tax Act, 1957,—

(1) clause (xx) of sub-section (1) of section 5 shall be omitted;

(2) in the Schedule, for Part I, the following Part shall be substituted, namely:—

**"PART I**

**Rate of tax**

**(a) In the case of every individual:—**

(i) on the first rupees two lakhs of net wealth ..	Nil
(ii) on the next rupees eight lakhs of net wealth ..	1%
(iii) on the next rupees ten lakhs of net wealth ..	1·75%
(iv) on the balance of net wealth ..	2·5%

**(b) In the case of every Hindu undivided family:—**

(i) on the first rupees four lakhs of net wealth ..	Nil
(ii) on the next rupees seven lakhs of net wealth ..	1%
(iii) on the next rupees ten lakhs of net wealth ..	1·75%
(iv) on the balance of net wealth ..	2·5%";

(3) in the Schedule, Part II, in Rule 2, for the figure and words "2 per cent.", the figures and words "2·5 per cent." shall be substituted.

**Expenditure-tax not to be levied from 1st April, 1962.**

13. Notwithstanding anything contained in the Expenditure-tax Act, 1957, expenditure-tax shall not be charged for any financial year commencing on or after the first day of April, 1962, in respect of the expenditure incurred by any individual or Hindu undivided family.

**Amendment of the First Schedule to Act 14 of 1961.**

14. In the Finance Act, 1961, in the First Schedule, in Part II, in Paragraph D, in clause (ii) of the first proviso, for the words "any Indian company which satisfies", the words "any company which satisfies" shall be substituted and shall be deemed always to have been substituted.

15. The Indian Tariff Act, 1934 (hereinafter referred to as the Amendment of Tariff Act), shall be amended in the manner specified in the Second Schedule.

Act 32 of 1934.

16. In the Central Excises and Salt Act, 1944—

Amendment of  
Act 1 of 1944.

(1) in section 2, in clause (f), in sub-clause (i), the word "and" shall be omitted and after sub-clause (ii), the following sub-clause shall be inserted, namely:—

"(iii) in relation to patent or proprietary medicines as defined in Item No. 14E of the First Schedule and in relation to cosmetics and toilet preparations as defined in Item No. 14F of that Schedule, includes the conversion of powder into tablets or capsules, the labelling or re-labelling of containers intended for consumers and re-packing from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumers.";

(2) in the First Schedule,—

(a) in Item No. 4,—

(1) under "I. Unmanufactured tobacco"—

(i) for the entries in the third column against sub-items (1), (2), (3), (4), (5) and (6), the entries "Two rupees and sixty naye paise", "Sixteen rupees and ninety naye paise", "Two rupees and twenty-five naye paise", "Two rupees and five naye paise", "One rupee and twenty naye paise" and "Two rupees and twenty-five naye paise" shall, respectively, be substituted;

(ii) sub-item (5) (iii) shall be omitted;

(2) under "II. Manufactured tobacco"—

for sub-item (2), the following sub-item shall be substituted, namely:—

Per thousand

"(2) Cigarettes of which the value—

(i) exceeds Rs. 35 a thousand. Twenty-five rupees and thirty naye paise.

(ii) exceeds Rs. 25 a thousand, but does not exceed Rs. 35 a thousand. Twelve rupees and ninety-five naye paise.

(iii) exceeds Rs. 15 a thousand, but does not exceed Rs. 25 a thousand. Six rupees and sixty-five naye paise.

(iv) exceeds Rs. 7.50 a thousand, but does not exceed Rs. 15 a thousand. Two rupees and ninety naye paise.

(v) does not exceed Rs. 7.50 a thousand. One rupee and thirty naye paise."

(b) for Item No. 11, the following Item shall be substituted, namely:—

**"11. ASPHALT, BITUMEN AND TAR—**

- (1) Asphalt and Bitumen Twenty-seven per (including cut-back bitumen and asphalt) natural cent. *ad valorem.* or produced from petroleum or shale.
- (2) Tar distilled from coal or lignite, and other mineral tars, including partially distilled tars and blends of pitch with creosote oils or with other coal tar distillation products. Twenty-seven per cent. *ad valorem.*;

(c) after Item No. 11, under the heading "Mineral fuels, lubricants and related materials", the following Item shall be inserted, namely:—

**"IIA. ALL PRODUCTS DERIVED FROM REFINING OF CRUDE PETROLEUM OR SHALE (WHETHER GASEOUS, LIQUID, SEMI-SOLID OR SOLID IN FORM), NOT OTHERWISE SPECIFIED, INCLUDING REFINERY GASES, LUBRICATING OIL AND GREASES, WAXES AND COKE—** Five per cent *ad valorem.*";

(d) in Item No. 14, for sub-item III, the following sub-item shall be substituted, namely:—

**"III. Cellulose lacquers—"**

- (i) Nitrocellulose lacquers, clear and pigmented and nitrocellulose ancillaries in liquid form. One rupee and forty naye paise per litre.
- (ii) Nitrocellulose ancillaries in semi-solid and pasty forms. Fifty naye paise per kilogram.
- (iii) Cellulose lacquers, not otherwise specified. One rupee and forty naye paise per litre.";

(e) for Item No. 14D, the following Item shall be substituted, namely:—

**"14D. SYNTHETIC ORGANIC DYESTUFFS (INCLUDING PIGMENT DYESTUFFS) AND SYNTHETIC ORGANIC DERIVATIVES USED IN ANY DYEING PROCESS.** Fifteen per cent. *ad valorem.*";

(f) for Item No. 14E, the following Item shall be substituted, namely:—

**"14E. 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.** Ten per cent. *ad valorem.*"

*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.

(g) after Item No. 14F, the following Items shall be inserted, namely:—

**"14G. NITRIC, HYDRO-CHLORIC AND SULPHURIC ACIDS (INCLUDING FUMING ACIDS AND ANHYDRIDES THEREOF), ALL SORTS.** Ten per cent. *ad valorem.*

**14H. COMPRESSED, LIQUEFIED OR SOLIDIFIED GASES, THE FOLLOWING NAMELY:—**

(i) Oxygen Ten per cent. *ad valorem.*

(ii) Chlorine Ten per cent. *ad valorem.*

(iii) Ammonia

Ten per cent. *ad valorem.*(iv) Carbonic acid  
(Carbon dioxide).Fifty per cent. *ad valorem.*

(v) Refrigerant gases, not otherwise specified, such as sulphur dioxide and freon.

Twenty per cent. *ad valorem.*;

(h) for Item No. 15A, the following Item shall be substituted, namely:—

“15A. PLASTICS, ALL SORTS—

Twenty per cent. *ad valorem.*;

(i) Moulding powders, granules and flakes (thermo-setting and thermoplastic).

(ii) Polyethylene films; lay-flat tubings and P. V. C. sheets (that is to say, Polyvinyl Chloride sheets).

(iii) Not otherwise specified.

(i) after Item No. 16, the following Items shall be inserted, namely:—

“16A. RUBBER PRODUCTS,  
THE FOLLOWING, NAMELY:—

(i) Latex foam sponge

Twenty per cent. *ad valorem.*

(ii) Plates, sheets and strips unhardened, whether vulcanized or not, and whether combined with any textile material or otherwise.

Twenty per cent.  
*ad valorem.*

16B. PLYWOOD, BLOCK-BOARD, LAMINBOARD, BATTE BOARD, HARD OR SOFT WALL BOARDS OR INSULATING BOARD AND VENEERED PANELS, WHETHER OR NOT CONTAINING ANY MATERIAL OTHER THAN WOOD; CELLULAR WOOD PANELS; BUILDING BOARDS OF WOOD PULP OR OF VEGETABLE FIBRE, WHETHER OR NOT BONDED WITH NATURAL OR ARTIFICIAL RESINS OR WITH SIMILAR BINDERS; AND ARTIFICIAL OR RECONSTITUTED WOOD BEING WOOD SHAVINGS, WOOD CHIPS, SAW DUST, WOOD

FLOUR OR OTHER LIGNEOUS WASTE AGGLOMERATED WITH NATURAL OR ARTIFICIAL RESINS OR OTHER ORGANIC BINDING SUBSTANCES, IN SHEETS, BLOCKS, BOARDS OR THE LIKE—

(i) Plywood for Tea-chests Ten per cent. *ad valorem*, when cut to size in panels or shooks and packed in sets.

(ii) All others . . . . Fifteen per cent. *ad valorem*.";

(j) in Item No. 18—

(i) for the entry in the third column, the entry "Four rupees and fifty naye paise per kilogram" shall be substituted;

(ii) the following *Explanation* shall be added, namely:—

*"Explanation.—'Rayon and synthetic fibres and yarn' shall be deemed to include man-made fibres and yarn made out of man-made fibres.";*

(k) in Item No. 18A, for the entries in the third column against sub-items (1) and (2), the entries "Thirty naye paise per kilogram" and "Fifteen naye paise per kilogram" shall, respectively, be substituted;

(l) in Item No. 18B, for the entries in the third column against sub-items (1) and (2), the entries "Fifteen per cent. *ad valorem*" and "Seven and a half per cent. *ad valorem*" shall, respectively, be substituted;

(m) in Item No. 19,—

(i) in the second column,—

(a) in clause (b), the word "or" shall be inserted at the end; and

(b) in clause (c), the word "or" and clause (d) shall be omitted;

(ii) for the entries in the third column against sub-items (1), (2), (3), (4) and (5), the entries "Sixty naye paise per square metre", "Sixty naye paise per square metre", "Forty naye paise per square metre", "Forty naye paise per square metre" and "Sixty naye paise per square metre" shall, respectively, be substituted;

(n) in Item No. 21, in the second column, the words "but do not include any such fabric if manufactured on a handloom" shall be omitted;

(o) in Item No. 22,—

(i) in the second column, in clause (iii), the word "or" shall be inserted at the end; and

(ii) in clause (iv), the word "or" and clause (v) shall be omitted;

(p) after Item No. 22, the following Item shall be inserted, namely:—

**"22A. JUTE MANUFACTURES  
(INCLUDING MANUFACTURES  
OF BIMLIPATAM JUTE OR OF  
MESTA FIBRE), ALL SORTS—**

(i) Hessians . . . . . Two hundred and fifty rupees per metric tonne.

(ii) All other descriptions of jute manufactures not otherwise specified (including cloth, bags, twist, yarn, rope and twine). One hundred and twenty-five rupees per metric tonne."

(q) after Item No. 23B, the following Item shall be inserted, namely:—

**"23C. ASBESTOS-CEMENT PRODUCTS, ALL SORTS, INCLUDING FLAT AND CORRUGATED SHEETS, PIPES AND TUBES AND TILES.** Ten per cent. *ad valorem.*";

(r) in Item No. 26A, for sub-items (1) and (2), the following sub-items shall be substituted, namely:—

"(1) In any crude form including ingots, bars, blocks, slabs, billets, shots and pellets. One hundred rupees per metric tonne.

(2) Manufactures, the following, namely, plates, sheets, circles, strips and foils in any form or size. Three hundred rupees per metric tonne.

(3) Pipes and tubes . . . . . Ten per cent. *ad valorem.*";

(s) after Item No. 26A, the following item shall be inserted, namely:—

**"26AA. IRON OR STEEL PRODUCTS, THE FOLLOWING, NAMELY:—**

- (i) Bars, rods, coils, wires, joists, girders, angles, channels, tees, flats, beams, zeds, trough, piling, and all other rolled, forged or extruded shapes and sections, not otherwise specified. Five per cent. *ad valorem* plus the excise duty for the time being leviable on pig iron or steel ingots, as the case may be.
- (ii) Plates and sheets, other than plates and sheets intended for tinning, and hoops and strips, all sorts, including galvanised or corrugated plates and sheets. Seven and a half per cent. *ad valorem* plus the excise duty for the time being leviable on pig iron or steel ingots, as the case may be.
- (iii) Uncoated plates and sheets intended for tinning. Seven and a half per cent. *ad valorem* plus the excise duty for the time being leviable on pig iron or steel ingots, as the case may be.
- (iv) Pipes and tubes (including blanks therefor) all sorts, whether rolled, forged, spun, cast, drawn, annealed, welded or extruded. Five per cent. *ad valorem* plus the excise duty for the time being leviable on pig iron or steel ingots, as the case may be;
- (v) All other steel castings, not otherwise specified. Five per cent. *ad valorem* plus the excise duty for the time being leviable on steel ingots.";

(t) in Item No. 27, for sub-item (b), the following sub-items shall be substituted, namely:—

- "(b) Manufactures, the following, namely, plates, sheets, circles and strips in any form or size. Five hundred rupees per metric tonne,
- (bb) Foils, that is a product of thickness (excluding any backing) not exceeding 0·15 millimetres. Six hundred rupees per metric tonne."

(u) for Item No. 29A, the following Item shall be substituted, namely:—

“29A. REFRIGERATING AND AIR-CONDITIONING APPLIANCES AND MACHINERY, ALL SORTS, AND PARTS THEREOF—

- (1) Refrigerators and other refrigerating appliances, which are ordinarily sold or offered for sale as ready assembled units, such as ice makers, bottle coolers, display cabinets and water coolers. Twenty per cent. *ad valorem.*
- (2) Air-conditioners and other air-conditioning appliances, which are ordinarily sold or offered for sale as ready assembled units, including package type air-conditioners and evaporative type of coolers. Twenty per cent. *ad valorem.*
- (3) Parts of refrigerating and air-conditioning appliances and machinery, all sorts. Thirty per cent. *ad valorem.*”;

(v) to Item No. 30, the following *Explanation* shall be added, namely:—

*Explanation.*—This Item does not include motors specially designed for use in gramophones or record players and all parts of such motors.”;

(w) after Item No. 33A, the following Item shall be inserted, namely:—

“33B. ELECTRIC WIRES AND CABLES, ALL SORTS, NOT OTHERWISE SPECIFIED—

- (i) Insulated wires and cables, whether sheathed or unsheathed when designed for use in circuits of less than 10 amperes and at a pressure not exceeding 250 volts. Fifteen per cent *ad valorem.*
- (ii) All others Five per cent *ad valorem*”;

(x) in Item No. 34, for the entries under the third column against sub-items (1) and (2), the entries "One hundred and seventy-five rupees each or seven and a half per cent. *ad valorem*, whichever is higher" and "One thousand rupees each or ten per cent. *ad valorem*, whichever is higher" shall, respectively, be substituted;

(y) after Item No. 37, the following Item shall be inserted, namely:—

**"37A. GRAMOPHONES, INCLUDING RECORD PLAYERS, WHETHER MECHANICALLY OR ELECTRICALLY DRIVEN, AND WITH ACOUSTIC, ELECTRONIC, OR TRANSISTORISED SYSTEMS OF REPRODUCTION OR AMPLIFICATION, AND PARTS AND ACCESSORIES THEREOF, AND GRAMOPHONE RECORDS, ALL SORTS—**

(i) Gramophones or record players, including radio-grams. Twenty per cent. *ad valorem*.

(ii) Parts and accessories of gramophones or record players, all sorts. Thirty per cent. *ad valorem*.

(iii) Gramophone records, all sorts, other than matrices. Fifteen per cent. *ad valorem*.

(iv) Matrices for records, impressed. Thirty per cent. *ad valorem*.

(v) Gramophone needles or styli—

(a) wholly made of steel Twenty per cent. *ad valorem*.

(b) others Twenty-five per cent. *ad valorem*";

(z) Item No. 40 shall be omitted.

17. In the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957, in Item No. 4—  
Amendment of Act 58 of 1957.

(a) under "I. Unmanufactured tobacco—" sub-item (5) (iii) shall be omitted;

(b) under "II. Manufactured tobacco—" for sub-item (2), the following sub-item shall be substituted, namely:—

Per thousand

"(2) Cigarettes of which the value—

(i) exceeds Rs. 35 a thousand Seven rupees and seventy naye paise.

(ii) exceeds Rs. 25 a thousand, Four rupees but does not exceed Rs. 35 a thousand.

(iii) exceeds Rs. 15 a thousand, Two rupees and but does not exceed Rs. 25 twenty naye paise. a thousand.

(iv) exceeds Rs. 7.50 a thousand, Seventy naye paise. but does not exceed Rs. 15 a thousand.

(v) does not exceed Rs. 7.50 a Forty naye paise." thousand.

Amend-  
ment of  
Act 16 of  
1955.

18. In the Schedule to the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, for *Explanation 1*, the following *Explanation* shall be substituted, namely:—

— "Explanation 1.—'Patent or proprietary medicines' means any medicinal preparation 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 medicinal preparation for the purpose of indicating or so as to indicate a connection in the course of trade between the preparation 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".

Repeal.

19. Section 2 of the Finance Act, 1962 is hereby repealed and shall 11 of 1962. be deemed never to have been enacted.

## 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.	Nil
(2) On the next	2,000 „	1,700 „	1,400 „	3%
(3) On the next	2,500 „	2,500 „	2,500 „	7%
(4) On the next	2,500 „	2,500 „	2,500 „	10%
(5) On the next	2,500 „	2,500 „	2,500 „	12%
(6) On the next	2,500 „	2,500 „	2,500 „	15%
(7) On the next	2,500 „	2,500 „	2,500 „	20%
(8) On the next	2,500 „	2,500 „	2,500 „	23%

- (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 Nil
(2) On the next . . . . .	4,000 „ „ 3%
(3) On the next . . . . .	2,500 „ „ 7%
(4) On the next . . . . .	2,500 „ „ 10%
(5) On the next . . . . .	2,500 „ „ 12%
(6) On the next . . . . .	2,500 „ „ 15%
(7) On the next . . . . .	2,500 „ „ 20%
(8) On the next . . . . .	2,500 „ „ 23%
(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—

(i) no surcharge for purposes of the Union shall be payable where the total income does not exceed the limit specified below;

(ii) no special surcharge shall be payable in the case of an assessee whose total income does not include any income from dividend on ordinary shares if his total income does not exceed the limit specified below, and where the total income includes any dividends on ordinary shares, such limit shall be increased by Rs. 1,500 or the amount of the said dividends, whichever is less:

Provided further that—

(a) where the total income includes any dividends on ordinary shares, the surcharge for purposes of the Union and the special surcharge shall not in each case exceed half the amount by which the total income exceeds the respective limits applicable in either case;

(b) the surcharge for purposes of the Union and the special surcharge, both together, shall not exceed half the amount by which the total income exceeds the limit specified below;

The limit aforesaid shall be—

(i) Rs. 15,000 in the case of every Hindu undivided family which satisfies as at the end of the previous year 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. 7,500 in every other case.

*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 grand-father 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 5 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; and

(b) a special surcharge of fifteen per cent. of the amount of income-tax.

**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
(1) On the first Rs. 25,000 of total income	Nil	Nil
(2) On the next Rs. 15,000 of total income	5%	7%
(3) On the next Rs. 20,000 of total income	6%	8%
(4) On the next Rs. 40,000 of total income	7%	9%
(5) On the next Rs. 50,000 of total income	8%	10%
(6) On the balance of total income	10%	12%

## 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 . . . . .	<i>Nil</i>
(2) On the next Rs. 5,000 of total income . . . . .	<i>8%</i>
(3) On the next Rs. 5,000 of total income . . . . .	<i>18%</i>
(4) On the next Rs. 10,000 of total income . . . . .	<i>22%</i>
(5) On the next Rs. 10,000 of total income . . . . .	<i>32%</i>
(6) On the next Rs. 10,000 of total income . . . . .	<i>40%</i>
(7) On the next Rs. 10,000 of total income . . . . .	<i>45%</i>
(8) On the balance of total income . . . . .	<i>47·5%</i>

*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 12½ 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 12½ per cent. of the amount of super-tax.

**31 of 1956.**

*Paragraph D*

In the case of every company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation 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, 1962, 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 provided in clause (i) of the second proviso to Paragraph D of Part II of the First Schedule to the Finance Act, 1961 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

14 of 1961.

(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 thousands, 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 this 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 under the Life Insurance Corporation Act, 1956,—

31 of 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		

##### i. 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 | 25%      1.25%      3.75% |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|

	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		
(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)—

Nil

(1) on dividends payable by any of its subsidiary Indian companies formed and registered before the 1st day of April, 1961

20%

(2) on dividends payable by an Indian company, not being a subsidiary company, formed and registered before the 1st day of April, 1959

(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, not being income from dividends

33%

## THE SECOND SCHEDULE

(See section 15)

## PART I

In the First Schedule to the Tariff Act,—

(i) in Item No. 22(4) (b),—

(1) for the entry in the fourth column against sub-item (i), the following entry shall be substituted, namely:—

“Rs. 60·00 per litre or 170 per cent. *ad valorem*, whichever is higher, *plus* Rs. 5·00 per litre.”;

(2) in the entry in the fourth column against sub-item (ii), for the figures “44.00”, the figures “45.00” shall be substituted;

(ii) in Item No. 28A,—

(1) in the entry in the second column, for the word, brackets and letter “clause(d)”, the word, brackets and letter “clause(h)”, shall be substituted;

(2) in each of 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;

(iii) in Item No. 47(2), in the entry in the fourth column, for the words and figures “Rs. 6·60 per kilogram or 50 per cent. *ad valorem*”, the words and figures “Rs. 7·50 per kilogram or 55 per cent. *ad valorem*” shall be substituted;

(iv) in Items Nos. 63, 63(1), 63(4), 63(5), 63(11), 63(13), 63(23), 63(26) and 63(35), for the figures and words “20 per cent. *ad valorem*” in the entry against each of them in the fourth column, the figures and words “25 per cent. *ad valorem*” shall be substituted;

(v) in Item No. 63(6),—

(1) for the entry in the fourth column against sub-item (i), the following entry shall be substituted, namely:—

“15 per cent. *ad valorem*. ”;

(2) for the entry in the fourth column against sub-item (ii), the following entry shall be substituted, namely:—

“Rs. 74·00 per tonne *plus* 5 per cent. *ad valorem*. ”;

(vi) in Item No. 63(8), for the entry in the fourth column, the entry “Rs. 5·00 per tonne or 20 per cent. *ad valorem*, whichever is higher, *plus* 5 per cent. *ad valorem*” shall be substituted;

(vii) in Item No. 63(9), for the entry in the fourth column, the entry "Rs. 60·00 per tonne plus 5 per cent. *ad valorem*" shall be substituted;

(viii) in Item No. 63(10),—

(1) for the words and figures "Rs. 59·10 per tonne" in the fourth column against sub-item (i), the words and figures "Rs. 80·00 per tonne" shall be substituted;

(2) for the words and figures "Rs. 79·70 per tonne" in the fourth column against sub-item (ii), the words and figures "Rs. 100·00 per tonne" shall be substituted;

(ix) in Items Nos. 63(12), 63(15), 63(28), 63(29) (a), 63(29) (b) and 63(33) (b), for the entry against each of them in the fourth column, the entry "55 per cent. *ad valorem*" shall be substituted;

(x) in Item No. 63(17),—

(1) for the entry in the fourth column against sub-item (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*";

(2) for the entry in the fourth column against sub-item (ii), the following entry shall be substituted, namely:—

"Rs. 55·00 per tonne plus 5 per cent. *ad valorem*";

(xi) in Items Nos. 63(18) (b) and 63(33) (a), for the entry against each of them in the fourth column, the entry "40 per cent. *ad valorem*" shall be substituted;

(xii) in Item No. 63(19), in the entry in the second column, after the words "cast iron plates", the words "and stainless steel plates" shall be added;

(xiii) in Item No. 63(20), in the entry in the second column, after the words "high silicon electrical steel sheets", the words "and stainless steel sheets" shall be added;

(xiv) in Item No. 63(24), for the entries in the fourth and fifth columns, the entries "55 per cent. *ad valorem*" and "45 per cent. *ad valorem*", shall, respectively, be substituted;

(xv) in Item No. 63(25), in the entry in the second column, the words "and iron or steel wire nails" shall be omitted;

(xvi) in Item No. 63(27),—

(1) for the entry in the fourth column against sub-item (i), the entry "Rs. 15.00 per tonne or 15 per cent. *ad valorem*, whichever is higher, plus 5 per cent. *ad valorem*" shall be substituted;

(2) for the entry in the fourth column against sub-item (ii), the entry "Rs. 42.00 per tonne or 25 per cent. *ad valorem*, whichever is higher, plus 5 per cent. *ad valorem*" shall be substituted;

(xvii) in Item No. 71(a), for the entry "35 per cent. *ad valorem*" in the fourth column, the entry "50 per cent. *ad valorem*" shall be substituted; and

(xviii) in Item No. 75(1), for the entry in the fourth column, the entry "150 per cent. *ad valorem*" shall be substituted.

PART II

Item No.	Name of Article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom	A British Colony	
1			2	3	4	5
2						6
3						7

In the First Schedule to the Tariff Act—

(i) for Item No. 22(5)(b), the following:

(1) entered in such a manner as to indicate that the strength is not to be rested.

(ii) Not so entered.

<p><b>Preferential Revenue.</b></p>	<p>Rs. 9.00 per litre of the strength of London proof or 50 per cent. <i>ad valorem</i>, whichever is higher, <i>plus</i> 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.</p>	<p>Rs. 8.35 per litre of the strength of London proof or 40 per cent. <i>ad valorem</i>, whichever is higher, <i>plus</i> the excise duty for the time being leviable on like articles if produced or manufactured.</p>
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tured in India, and where such duty is leviable at different rates, the highest duty.

(ii) in Section V after Item No. 27(9), the following Item shall be inserted, namely :—

- \*27(10) All products derived from refining of crude petroleum or shale (whether gaseous, liquid, semi-solid or solid in form), including refinery gases, lubricating oil and greases, waxes and coke, but excluding articles falling under Items Nos. 27(3), 27(4)(a), 27(5), 27(6) and 27(7)(b).<sup>33</sup>

(iii) after Item No. 28(34), the following Items shall be inserted, namely :—

- \*28(37) Nitric, Hydrochloric and Sulphuric Acids (including fulminating acids and anhydrides thereof), all sorts.
- 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; and the duty so leviable shall be in addition to the duty which would have been levied if this entry had not been inserted.

- 28(36) Compressed, liquefied or solidified gases, the following, namely—  
 (i) Oxygen.  
 (ii) Chlorine.  
 (iii) Ammonia.  
 (iv) Carbonic acid (Carbon dioxide).  
 (v) Refrigerant gases, all others, such as sulphur dioxide and freon.

- 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; and the duty so leviable shall be in addition to the duty which would have been levied if this entry had not been inserted.

I	2	3	4	5	6	7
28(37) 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, Siddha or Homoeopathic.	Revenue	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; and the duty so leviable shall be in addition to the duty which would have been levied if this entry had not been inserted.	..";	"";	"";	"";

*Explanation.*—For the purposes of this item, “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 Section VIII, after Item No. 39 (3), the following Item shall be inserted, namely:—

Rubber products, the follow- Revenue . 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; and the duty so leviable shall be in addition to the duty which would have been levied if this entry had not been inserted.

(v) Latex foam sponge

(vi) Plates, sheets and strips unhardened, whether vulcanized or not, and whether combined with any textile material or otherwise,

(v) in Section IX, after Item No. 42, the following Item shall be inserted, namely:-

"42(1) Plywood, blockboard, laminated board, batten board, hard or soft wall boards or insulating board and veneered panels, whether or not containing any material other than wood; cellular wood panels; building boards of wood pulp or of vegetable fibre, whether or not bonded with natural or artificial resins or with similar binders; and artificial or reconstructed wood being wood shavings, wood chips, saw dust, wood flour, or other ligneous waste agglomerated with natural or artificial resins or other organic binding substances, in sheets, blocks, boards or the like—

(f) Plywood for tea-chests when cut to size in panels or shocks and packed in sets.

(ii) All others.

(vi) after Item No. 50(1), the following Item shall be inserted, namely:-

"50(1A) (i) manufactures (including manufacturers of Bimilipattan fibre or of Meta fibre), all sorts—  
(2) Hessians.

...";

...";

...";

	2	3	4
(ii) All other descriptions of jute manufactures not falling in sub-item (i) above (including cloth, bags, twist, yarn, rope and twine).			so leviable shall be in addition to the duty which would have been levied if this entry had not been inserted.
(o) after Item No. 58(1), the following Item shall be inserted, namely :— “58(A) Asbestos-cement products, all sorts, including flat and corrugated sheets, pipes and tubes and tiles.	Revenue		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; and the duty so leviable shall be in addition to the duty which would have been levied if this entry had not been inserted.
(or) for Item No. 63(16), the following Item shall be substituted, namely :— “63(16) Iron or steel washers, all sorts, and iron or steel nails, all sorts, including wire nails and panel pins.	Revenue		55 per cent <i>ad valorem</i> .
(x) after Item No. 63(20), the following Item shall be inserted, namely :— “63(20A) Stainless steel plates and sheets.	Revenue		25 per cent <i>ad valorem</i> .
(x) after Item No. 63(35), the following Item shall be inserted, namely :— “63(36) Iron or steel products, the following, namely:— (i) Bars, rods, coils, wires, joists, girders, angles, channels, tees, flats, beams, zeds, trough, pil- ing, and all other rolled, forged or extruded shapes and sections.	Revenue		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; and the duty so leviable shall be in addition to the duty which would have been levied if this entry had not been inserted.

(ii) Plates and sheets, other than plates and sheets intended for tinning, and hoops and strips, all sorts, including galvanised or corrugated plates and sheets.

(iii) Uncotted plates and sheets intended for tinning.

(iv) Pipes and tubes (including blanks therefor), all sorts, whether rolled forged, spun, cast, drawn, annealed, welded or extruded.

(v) All other steel castings.

(x) for Item No. 64(6), the following Item shall be substituted, namely :—

“64(6) Copper and copper alloys containing not less than fifty per cent by weight of copper—

(1) In any crude form including ingots, bars, blocks, slabs, billets, shots and pellets.

(2) Manufactures, the following, namely, plates, sheets, circles, strips and foils in any form or size.

(3) Pipes and tubes.

Revenue • 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; and the duty so leviable shall be in addition to the duty which would have been levied if this entry had not been inscribed.

	2	3	4	5	6	7
(xii) for Item No. 72 (41), the following Item shall be substituted, namely :—						
§72(41) Refrigerating and air-conditioning appliances and machinery, all sorts, and parts thereof:—						
(1) Refrigerators and other refrigerating appliances, which are ordinarily sold or offered for sale as ready assembled units, such as ice makers, bottle coolers, display cabinets and water coolers.						
(2) Air-conditioners and other air-conditioning appliances, which are ordinarily sold or offered for sale as ready assembled units, including package type air-conditioners and evaporative type of coolers.						
(3) Parts of refrigerating and air-conditioning appliances and machinery, all sorts.						

(viii) in Section XVI, after Item No. 73(23), the following Items shall be inserted, namely :—

- “73(24) Electric wires and cables, all sorts, not falling under Item 63(36). 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; and the duty so leviable shall be in addition to the duty which would have been levied if this entry had not been inserted.

(xiv) in Section XVIII, after Item No. 79, the following Item shall be inserted, namely:—

**“79 (r) Gramophones, including record players, whether mechanically or electrically driven, and with acoustic, electronic or transistorised systems of reproduction or amplification, and parts and accessories thereof, and gramophone records, all sorts—**

**Revenue**  
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; and the duty so leviable shall be in addition to the duty which would have been levied if this entry had not been inserted.—

(i) Gramophones or record players, including radiograms.

(ii) Parts and accessories of gramophones or record players, all sorts.

(iii) Gramophone records, all sorts, other than matrices.

(iv) Matrices for records impressed.

(v) Gramophone needles or stylus—

(a) wholly made of steel.

(b) Others.

1	2	3	4	5	6	7
"82 (6)(A) Plastics, all sorts—	Revenue	The excise duty for time being leviable on like articles if produced or manufactured in India, and where such duty is leviable at different rates, the highest duty; and the duty so leviable shall be in addition to the duty which would have been levied if this entry had not been inserted.				
(i) Moulding powders, granules and flakes (thermosetting and thermoplastic.)						
(ii) Polyethylene films, flat-flat-tubings and P.V.C. sheets (that is to say, Polyvinyl Chloride sheets).						
(iii) All others.						

## THE DRUGS (AMENDMENT) ACT, 1962

NO. 21 OF 1962

[27th June, 1962]

### An Act further to amend the Drugs Act, 1940

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

1. (1) This Act may be called the Drugs (Amendment) Act, 1962. Short title and commencement.
2. In the Drugs Act, 1940 (hereinafter referred to as the principal Act), in the long title and first paragraph of the preamble, after the word "drugs", the words "and cosmetics" shall be inserted. Amendment of long title and preamble.
3. In section 1 of the principal Act, in sub-section (1), after the word "Drugs", the words "and Cosmetics" shall be inserted. Amendment of section I.
4. In section 3 of the principal Act,—
  - (a) after clause (a), the following clause shall be inserted, namely:—

(aa) "cosmetic" means any article intended to be rubbed, poured, sprinkled or sprayed on, or introduced into, or otherwise applied to, the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and includes any article intended for use as a component of cosmetic, but does not include soap;'
  - (b) in clause (f)—
    - (i) after the words "any drug", where they occur for the first and second time, the words "or cosmetic" shall be inserted;
    - (ii) for the words "or the packing of any drug", the words "of any drug, or the packing of any drug or cosmetic," shall be substituted.

Amendment  
of section 6.

5. In section 6 of the principal Act,—

(a) in sub-section (1), in the proviso, after the words "any drug or class of drugs", the words "or cosmetic or class of cosmetics" and after the words "such drug or class of drugs", the words "or such cosmetic or class of cosmetics" shall be inserted;

(b) in sub-section (2), in clause (d), after the word "drugs", the words "or cosmetics" shall be inserted.

Amendment  
of section 8.

6. In section 8 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

'(1) For the purposes of this Chapter, the expression "standard quality" means—

(a) in relation to a drug, that the drug complies with the standard set out in the Schedule, and

(b) in relation to a cosmetic, that the cosmetic complies with such standard as may be prescribed.'

Insertion of  
new section  
9A.

7. After section 9 of the principal Act, the following section shall be inserted, namely:—

Misbranded  
cosmetics.

"9A. For the purposes of this Chapter, a cosmetic shall be deemed to be misbranded—

(a) if it is an imitation of, or a substitute for, or resembles in a manner likely to deceive, another cosmetic; or

(b) if it purports to be the product of a place or country of which it is not truly a product; or

(c) if it contains a colour which is not prescribed; or

(d) if it is imported under a name which belongs to another cosmetic; or

(e) if it is not labelled in the prescribed manner; or

(f) if its label or container bears the name of an individual or company purporting to be the manufacturer or producer of the cosmetic which individual or company is fictitious or does not exist; or

(g) if the label or container bears any statement which is false or misleading in any particular.”.

**8. In section 10 of the principal Act,—**

Amendment  
of section 10.

(a) in clause (a), clause (c) and clause (f), after the words “any drug”, the words “or cosmetic” shall be inserted;

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

“(b) any misbranded drug or misbranded cosmetic;”;

(c) after clause (e), the following clause shall be inserted, namely:—

“(ee) any cosmetic containing any ingredient which may render it unsafe or harmful for use under the directions indicated or recommended;”.

**9. In section 11 of the principal Act,—**

Amendment  
of section  
11.

(a) in sub-section (1), after the word “drugs”, in both the places where it occurs, the words “and cosmetics” shall be inserted;

(b) in sub-section (2), after the word “drug”, in both the places where it occurs, the words “or cosmetic” shall be inserted.

**10. In section 12 of the principal Act, in sub-section (2),—**

Amendment  
of section  
12.

(a) in clause (a), after the words “classes of drugs”, the words “or cosmetics or classes of cosmetics” shall be inserted;

(b) in clause (b), after the word “drug”, the words “or cosmetic” shall be inserted;

(c) in clause (f), clause (h), clause (i), clause (j), clause (k) and clause (l), after the word “drugs”, wherever it occurs, the words “or cosmetics” shall be inserted;

(d) in clause (o), after the words “class of drugs”, the words “or cosmetic or class of cosmetics” shall be inserted.

**11. In section 14 of the principal Act, after the word “drugs”, the words “or cosmetics” shall be inserted.**

Amendment  
of section  
14.

**12. In section 16 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—**

Amendment  
of section  
16.

‘(1) For the purposes of this Chapter, the expression “standard quality” means—

(a) in relation to a drug, that the drug complies with the standard set out in the Schedule; and

(b) in relation to a cosmetic, that the cosmetic complies with such standard as may be prescribed.'

Insertion of  
new section  
17A.

13. After section 17 of the principal Act, the following section shall be inserted, namely:—

Misbranded  
cosmetics.

"17A. For the purposes of this Chapter, a cosmetic shall be deemed to be misbranded—

(a) if it is an imitation of, or a substitute for, or resembles in a manner likely to deceive, another cosmetic; or

(b) if it purports to be the product of a place or country of which it is not truly a product; or

(c) if it contains a colour which is not prescribed; or

(d) if it is sold, or offered or exposed for sale, under a name which belongs to another cosmetic; or

(e) if it is not labelled in the prescribed manner; or

(f) if its label or container bears the name of an individual or company purporting to be the manufacturer or producer of the cosmetic which individual or company is fictitious or does not exist; or

(g) if the label or container bears any statement which is false or misleading in any particular."

Amendment  
of section 18.

14. In section 18 of the principal Act,—

(a) in clause (a)—

(i) in sub-clause (i), after the words "any drug", the words "or cosmetic" shall be inserted;

(ii) for sub-clause (ii), the following sub-clause shall be substituted, namely:—

"(ii) any misbranded drug or misbranded cosmetic;"

(iii) for sub-clause (v), the following sub-clauses shall be substituted, namely:—

"(v) any cosmetic containing any ingredient which may render it unsafe or harmful for use under the directions indicated or recommended;

(vi) any drug or cosmetic in contravention of any of the provisions of this Chapter or any rule made thereunder.”;

(b) in clause (b) and clause (c), after the words “any drug”, the words “or cosmetic” shall be inserted.

15. In section 19, section 23, section 24, sub-section (1) and sub-section (4) of section 25, section 26, section 28 and section 29 of the principal Act, after the word “drug”, wherever it occurs, the words “or cosmetic” shall be inserted.

16. In section 20 of the principal Act, for the words “class of drugs”, in both the places where they occur, the words “classes of drugs or such cosmetics or classes of cosmetics” shall be substituted.

17. In section 21 of the principal Act,—

(a) in sub-section (2), for the words “class of drugs”, the words “classes of drugs or cosmetics or classes of cosmetics”, shall be substituted;

(b) in sub-section (3), for the words “in the manufacture, import or sale of drugs”, the words “in the import, manufacture or sale of drugs or cosmetics” shall be substituted.

18. In section 22 of the principal Act, in sub-section (1),—

(a) in clause (a) and clause (b), after the words “any drug”, the words “or cosmetic” shall be inserted;

(b) in clause (c), after the word “drug”, wherever it occurs, the words “or cosmetic” shall be inserted.

19. After section 27 of the principal Act, the following section shall be inserted, namely:—

“27A. Whoever himself or by any other person on his behalf manufactures for sale, sells, stocks or exhibits for sale, or distributes any cosmetic in contravention of any of the provisions of this Chapter or any rule made thereunder, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.”

20. In section 30 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Whoever, having been convicted of an offence under section 27A is again convicted under that section, shall be punishable with imprisonment for a term which may extend to

two years, or with fine which may extend to one thousand rupees, or with both.”.

Amendment  
of section  
31.

21. In section 31 of the principal Act,—

(a) in sub-section (1), after the word “drug”, the words “or cosmetic” shall be inserted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Without prejudice to the provisions contained in sub-section (1), where the Court is satisfied, on the application of an Inspector or otherwise and after such inquiry as may be necessary that the drug or cosmetic is not of standard quality or is a misbranded drug, or misbranded cosmetic, such drug or, as the case may be, such cosmetic shall be liable to confiscation.”.

Amendment  
of section  
33.

22. In section 33 of the principal Act, in sub-section (2),—

(a) in clause (a), clause (i) and clause (j), after the word “drugs”, wherever it occurs, the words “or cosmetics”, shall be inserted;

(b) in clause (c) and clause (p), after the word “drug”, wherever it occurs, the words “or cosmetic” shall be inserted;

(c) in clause (e), after the words “class of drugs”, the words “or of cosmetics or any specified cosmetic or class of cosmetics” shall be inserted;

(d) in clause (n), for the words “the drugs or class of drugs”, the words “specify the drugs or classes of drugs or cosmetics or classes of cosmetics” shall be substituted;

(e) in clause (q), after the words “class of drugs”, the words “or cosmetic or class of cosmetics” shall be inserted.

## THE APPROPRIATION (No. 3) ACT, 1962

No. 22 OF 1962

[28th June, 1962]

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, 1960, in excess of the amounts granted for those services and for that year.

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

1. This Act may be called the Appropriation (No. 3) Act, 1962. 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 four crores, eighty lakhs, ninety-four thousand seven hundred and sixty-two 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, 1960, in excess of the amounts granted for those services and for that year.

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, 1960.

Issue of Rs.  
4,80,94,762  
out of the  
Consolidated  
Fund of  
India to  
meet certain  
excess ex-  
penditure  
for the year  
ended on the  
31st March,  
1960.

## THE SCHEDULE

(See sections 2 and 3)

I No. of Vote	2 Services and purposes	3 Excess		
		Voted portion	Charged portion	Total
		Rs.	Rs.	Rs.
2	Industries . . .	1,59,189	..	1,59,189
31	Superannuation Allowances and Pensions . . .	6,75,986	..	6,75,986
35	Pre-partition Payments . . .	..	3,04,059	3,04,059
	CHARGED—Interest on Debt and Other Obligations and Reduction or Avoidance of Debt . . .	..	3,03,39,025	3,03,39,025
51	Census . . . .	3,28,039	..	3,28,039
55	Himachal Pradesh . . .	27,93,071	207	27,93,278
57	Manipur . . . .	5,83,467	..	5,83,467
93	Communications (including National Highways) . . .	14,44,837	..	14,44,837
97	Other Civil Works . . .	1,01,17,881	..	1,01,17,881
111	Capital Outlay of the Ministry of External Affairs . . .	3,45,979	..	3,45,979
115	Commututed Value of Pensions . . .	..	78,569	78,569
122	Capital Outlay of the Ministry of Health . . .	9,23,613	..	9,23,613
137	Capital Outlay on Buildings . . . .	..	840	840
	GRAND TOTAL . . . .	1,73,72,062	3,07,22,700	4,80,94,762

THE APPROPRIATION (RAILWAYS) No. 3 ACT, 1962

NO. 23 OF 1962

[28th June, 1962]

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, 1960, in excess of the amounts granted for those services and for that year.

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

1. This Act may be called the Appropriation (Railways) No. 3 ~~Short title.~~ Act, 1962.

2. From and out of the Consolidated Fund of India, the sums issue of Rs. specified in column 3 of the Schedule amounting in the aggregate to 55,02,286 the sum of fifty-five lakhs, two thousand, two hundred and eighty-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, 1960, in excess of the amounts granted for those services and for that year.

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, 1960.

## THE SCHEDULE

(See sections 2 and 3)

No. of Vote	Services and purposes	Sums aggregating to		
		Voted by Parliament	Charged on the Consolidated Fund	Total
3	Payments to Worked Lines and Others . . .	Rs. 1,50,130	Rs. ..	Rs. 1,50,130
4	Working Expenses—Admi- nistration . . .	..	76	76
5	Working Expenses—Repairs and Maintenance . . .	..	8,188	8,188
7	Working Expenses—Opera- tion (Fuel) . . .	28,71,248	..	28,71,248
8	Working Expenses—Opera- tion—Other than Staff and Fuel . . .	21,77,473	..	21,77,473
15	Construction of New Lines	..	2,65,379	2,65,379
16	Open Line Works—Addi- tions . . .	..	29,792	29,792
TOTAL . . .		51,98,851	3,03,435	55,02,286

THE PRESIDENT'S PENSION (AMENDMENT) ACT, 1962  
No. 24 OF 1962

[28th June, 1962]

An Act to amend the President's Pension Act, 1951.

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

1. This Act may be called the President's Pension (Amendment) Short title. Act, 1962.

2. Section 2 of the President's Pension Act, 1951 (hereinafter referred to as the principal Act) shall be re-numbered as sub-section (1) thereof and—

(i) in sub-section (1) as so re-numbered, the proviso shall be omitted; and

(ii) after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

"(2) Subject to any rules that may be made in this behalf, every such person shall, for the remainder of his life, be entitled—

(a) to secretarial staff and office expenses, the total expenditure on which shall not exceed twelve thousand rupees per annum; and

(b) to medical attendance and treatment, free of charge.

(3) Where any such person is re-elected to the office of President, he shall not be entitled to any benefit under this section for the period during which he again holds that office.”.

Amendment  
of section 4.

3. In section 4 of the principal Act, for the word "pension", the word "sum" shall be substituted.

Insertion of  
new section  
5.

4. After section 4 of the principal Act, the following section shall be inserted, namely:—

Power to  
make rules.

"5. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act."

THE ADVOCATES (SECOND AMENDMENT) ACT, 1962

No. 25 OF 1962

[4th July, 1962]

An Act further to amend the Advocates Act, 1961.

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

1. This Act may be called the Advocates (Second Amendment) Short title Act, 1962.
2. In sub-section (1) of section 24 of the Advocates Act, 1961, for Amendment of section 24. the words "appointed day", wherever they occur, the figures, letters and words "28th day of February, 1962" shall be substituted and shall be deemed always to have been substituted.

THE NATIONAL CO-OPERATIVE DEVELOPMENT  
CORPORATION ACT, 1962

NO. 26 OF 1962

[31st August, 1962]

An Act to provide for the incorporation and regulation of a corporation for the purpose of development of agricultural produce and certain other commodities on co-operative principles and for matters connected therewith.

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

Short title,  
extent and  
commencement.

1. (1) This Act may be called the National Co-operative Development Corporation Act, 1962.  
(2) It extends to the whole of India except the State of Jammu and Kashmir.  
(3) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(a) "agricultural produce" means any of the following classes of commodities, namely:—

- (i) foodstuffs, including edible oil-seeds;
- (ii) cattle fodder, including oil-cakes and other concentrates;
- (iii) raw cotton, whether ginned or unginned and cotton seed;
- (iv) raw jute; and
- (v) vegetable oils;

<sup>1</sup>14th March, 1963, *vide* Notification No. G.S.R. 456, dated 14-3-1963, Gazette of India, Extraordinary, Pt. II, Sec. 3(i), p. 149

28 of 1956.

(b) "Central Warehousing Corporation" means the Central Warehousing Corporation established under section 17 of the Agricultural Produce (Development and Warehousing) Corporations Act, 1956;

2 of 1912.

(c) "co-operative society" means a society registered or deemed to be registered under the Co-operative Societies Act, 1912 or under any other law with respect to co-operative societies for the time being in force in any State, which is engaged in any of the activities specified in sub-section (1) of section 9 and includes a co-operative land mortgage bank;

(d) "Corporation" means the National Co-operative Development Corporation established under section 3;

(e) "notified commodity" means any commodity (other than agricultural produce) which the Central Government may, by notification in the Official Gazette, declare to be a notified commodity for the purposes of this Act, being a commodity with respect to which Parliament has power to make laws by virtue of entry 33 in List III in the Seventh Schedule to the Constitution;

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

2 of 1934.

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

(h) "State Bank" means the State Bank of India constituted under the State Bank of India Act, 1955;

(i) "year" means the financial year.

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 Corporation by the name of the National Co-operative Development Corporation 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, in the said name, sue and be sued.

Establishment of the National Co-operative Development Corporation.

(2) The head-office of the Corporation shall be in New Delhi.

(3) The Corporation shall consist of the following members namely:—

(i) nine members representing the Central Government, to be nominated by that Government in such manner as may be prescribed;

(ii) one representative of the Reserve Bank, to be nominated by the Reserve Bank;

(iii) one representative of the State Bank, to be nominated by the State Bank;

(iv) one representative of the Central Warehousing Corporation, to be nominated by that Corporation;

(v) eight non-officials nominated by the Central Government of whom—

(a) one shall be a representative of the National Co-operative Union of India;

(b) two shall be persons who have special knowledge of rural economics and co-operation; and

(c) five shall be persons recommended by State Governments on a zonal basis in consultation with non-official co-operative organisations in the States in accordance with rules made under this Act.

(4) A member of the Corporation nominated by the Central Government may be nominated by virtue of office.

(5) There shall be a Chairman and a Vice-Chairman of the Corporation who shall be chosen from among the members in such manner as may be prescribed.

**4. Disqualifications for being a member of Corporation.** A person shall be disqualified for being chosen as, and for being, a member of the Corporation—

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

(ii) if he is or has been convicted of any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months, unless a period of five years has elapsed from the date of expiry of the sentence; or

(iii) if he is a salaried official of the Corporation.

**5. Term of office of members of Corporation.** (1) The term of office of members of the Corporation and the manner of filling vacancies among members shall be such as may be prescribed.

(2) Any member of the Corporation other than an *ex-officio* member may resign his office by giving notice in writing to the Central Government and on such resignation being accepted, he shall be deemed to have vacated his office.

6. The Central Government may, at any time, remove from office any member other than an *ex-officio* member of the Corporation after giving him a reasonable opportunity of showing cause against the proposed removal. Removal  
from office  
of member,  
etc.

7. (1) The Corporation shall meet at such times and places and shall, subject to the provisions of sub-sections (2) and (3), observe such procedure in regard to transaction of business at its meetings (including the quorum at meetings) as may be provided by regulations made by the Corporation under this Act. Meetings,  
etc., of Cor-  
poration.

(2) The Chairman or, in his absence, the Vice-Chairman or, in the absence of both the Chairman and the Vice-Chairman, any member chosen by the members present from amongst themselves, shall preside at a meeting of the Corporation.

(3) All questions at a meeting of the Corporation shall be decided by a majority of votes of the members present and voting, and in the case of an equality of votes, the Chairman or, in his absence, the Vice-Chairman or, in the absence of both the Chairman and the Vice-Chairman, the person presiding shall have and exercise a second or casting vote.

8. (1) The Central Government shall, in consultation with the Corporation, appoint a person to be the Secretary of the Corporation. Officers and  
other em-  
ployees of  
Corporation.

(2) Subject to such rules as may be made by the Central Government in this behalf, the Corporation 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 Corporation shall,—

(a) as respects the Secretary, be such as may be prescribed; and

(b) as respects the other officers and employees, be such as may be determined by regulations made by the Corporation under this Act.

9. (1) Subject to the provisions of this Act, the functions of the Corporation shall be to plan and promote programmes for the production, processing, marketing, storage, export and import of agricultural produce and notified commodities through co-operative societies. Functions of  
Corporation.

*National Co-operative Development Corporation*

[ACT 26]

(2) In particular and without prejudice to the generality of the foregoing provision, the Corporation may—

- (a) advance loans or grant subsidies to State Governments for financing co-operative societies and for employment of staff for implementing programmes of co-operative development;
- (b) provide funds to State Governments for financing co-operative societies for the purchase of agricultural produce and notified commodities on behalf of the Central Government;
- (c) plan and promote programmes through co-operative societies for the supply of seeds, manures, fertilizers, agricultural implements and other articles for the development of agricultural produce.

(3) The Corporation shall so exercise its functions under this section as not to interfere with the activities of the Khadi and Village Industries Commission established under the Khadi and Village Industries Commission Act, 1956.

61 of 1956.

**Executive Committee of Corporation.**

10. (1) There shall be an Executive Committee of the Corporation which shall consist of the following members, namely:—

- (a) the Vice-Chairman of the Corporation;
  - (b) three members nominated by the Central Government in such manner as may be prescribed, from among the members of the Corporation referred to in clause (i) of sub-section (3) of section 3;
  - (c) the representative of the Reserve Bank nominated under clause (ii) of sub-section (3) of section 3;
  - (d) two members nominated by the Central Government from among the members of the Corporation referred to in clause (v) of sub-section (3) of section 3.
- (2) (a) The Vice-Chairman of the Corporation shall be the Chairman of the Executive Committee.
- (b) The Vice-Chairman of the Executive Committee shall be nominated in such manner as may be prescribed, from among the members referred to in clause (b) of sub-section (1).
- (3) Subject to the general control, direction and superintendence of the Corporation, the Executive Committee shall be competent to deal with any matter within the competence of the Corporation.

(4) The Executive Committee shall meet at such times and at such places and shall observe such procedure in regard to transaction of business at its meetings (including the quorum at meetings) as may be provided by regulations made by the Corporation under this Act.

(5) The minutes of every meeting of the Executive Committee shall be laid before the Corporation at its next following meeting.

11. The Corporation may constitute such other committees for general or special purposes as it deems necessary for the efficient performance of its functions under this Act.

12. The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Corporation—

(a) by way of grant each year, such sum of money as is required by the Corporation for giving subsidies to State Governments and for meeting its administrative expenses; and

(b) by way of loan, such sum of money on such terms and conditions as the Central Government may determine.

13. (1) The Corporation shall maintain a fund called the National Co-operative Development Fund (hereinafter referred to as the Fund) to which shall be credited—

(a) all moneys and other securities transferred to it under clause (a) of sub-section (2) of section 24;

(b) the grants and other sums of money by way of loans paid to the Corporation by the Central Government under section 12;

(c) such additional grants, if any, as the Central Government may make to the Corporation for the purposes of this Act; and

(d) such sums of money as may, from time to time, be realised out of repayment of loans made from the Fund or from interest on loans or dividends on investments made from the Fund.

(2) The moneys in the Fund shall be applied for—

(a) advancing loans and granting subsidies to State Governments on such terms and conditions as the Corporation may deem fit for the purpose of enabling State Governments to subscribe to the share capital of co-operative societies or for otherwise financing co-operative societies;

(b) meeting the pay and allowances of the officers and other employees of the Corporation and other administrative expenses of the Corporation; and

(c) carrying out the purposes of this Act.

(3) All moneys in the Fund shall be deposited in the Reserve Bank or the State Bank.

**Returns and reports.**

14. (1) The Corporation shall furnish to the Central Government at such times and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to the discharge of its functions under this Act as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Corporation shall, as soon as possible, after the end of each year, submit to the Central Government a report, in such form and manner and before such date as may be prescribed, giving a true and full account of its activities, policy and programme during the previous year.

(3) A copy of the report received under sub-section (2) shall be laid before both Houses of Parliament.

**Directions by Central Government.**

15. In all matters including matters of policy, the Corporation shall be guided by such directions as may be given to it by the Central Government.

**Submission of programme of activities and financial estimates.**

16. (1) The Corporation shall prepare before the commencement of each year a statement of programme of its activities during the forthcoming year as well as a financial estimate in respect thereof.

(2) A statement prepared under sub-section (1) shall, not later than three months before the commencement of each year, be submitted to the Central Government for approval.

**Accounts of Board and audit.**

17. (1) The Corporation shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

(2) The account of the Corporation shall be audited annually by the Comptroller and Auditor-General of India or any person authorised by him in this behalf and any expenditure incurred in connection with such audit shall be payable by the Corporation.

(3) The Comptroller and Auditor-General of India and any person authorised by him in connection with the audit of the accounts of the Corporation shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General

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 office of the Corporation.

(4) The accounts of the Corporation certified by the Comptroller and Auditor-General of India or any other person authorised by him in this behalf together with an audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before both Houses of Parliament.

18. No act or proceeding of the Corporation shall be invalid by reason only of the existence of any vacancy among its members or any defect in the constitution thereof.

Vacancies,  
etc., not to  
invalidate  
acts and  
proceedings  
of the Cor-  
poration.

19. The Corporation may, by general or special order in writing, Delegation. delegate to the Chairman or the Vice-Chairman or any other member or any officer of the Corporation subject to such conditions and limitations, if any, as may be specified in the order such of its powers and functions under this Act as it may deem necessary.

20. Every member, auditor, officer or other employee of the Cor- Declaration of fidelity poration shall, before entering upon his duties, make a declaration of and secrecy. fidelity and secrecy in the form set out in the Schedule.

21. (1) The Central Government, if it is of opinion that the Cor- Dissolution of Corpora- tion has failed to carry out its functions under this Act or that for tion. any other reason it is not necessary to continue the Corporation, may, by notification in the Official Gazette, dissolve the Corporation from such date as may be specified in the notification.

(2) When the Corporation is dissolved under sub-section (1),—

(a) all members of the Corporation shall, from the date of dissolution, vacate their offices as such members;

(b) all powers and duties of the Corporation shall, as from the date of dissolution, be exercised and performed by the Central Government or such person or persons as the Central Government may appoint in this behalf;

(c) all moneys and other properties of the Corporation shall vest in the Central Government.

Power to  
make rules.

22. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner in which representatives of the Central Government shall be nominated under clause (i) of sub-section (3) of section 3;

(b) the zonal basis on which non-officials may be recommended under sub-clause (c) of clause (v) of sub-section (3) of section 3;

(c) the manner in which the Chairman and the Vice-Chairman of the Corporation shall be chosen;

(d) the term of office of members of the Corporation and the manner of filling vacancies among them;

(e) the methods of appointment, the conditions of service and the scale of pay of the Secretary to the Corporation;

(f) the manner in which the members shall be nominated under clause (b) of sub-section (1) of section 10 and the manner in which the Vice-Chairman of the Executive Committee shall be nominated under clause (b) of sub-section (2) of that section;

(g) the returns, statements and other particulars in regard to the discharge of its functions to be furnished by the Corporation to the Central Government;

(h) the form and the manner in which, and the time within which, the Corporation shall furnish to the Central Government returns, statements and other particulars with regard to the discharge of its functions;

(i) the form and the manner in which, and the time within which, the Corporation shall furnish to the Central Government a report of its activities, policy and programme;

(j) any other matter which has to be, or may be, prescribed.

(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 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 Corporation 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.

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

(a) the manner in which meetings of the Corporation, the Executive Committee and other committees thereof shall be convened, the fees for attending such meetings and the procedure to be followed thereat;

(b) 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 Corporation;

(c) the duties and conduct of officers and other employees of the Corporation; and

(d) any other matter in respect of which the Corporation is empowered or required to make regulations under this Act.

(3) The Central Government may, by notification in the Official Gazette, rescind any regulation which it has sanctioned and thereupon the regulation shall cease to have effect.

23 of 1956. 24. (1) With effect from the date on which the Corporation is established under section 3, the Agricultural Produce (Development and Warehousing) Corporations Act, 1956, shall, in so far as it relates to the National Co-operative Development and Warehousing Board, stand repealed.

(2) Notwithstanding such repeal,—

(a) all moneys and other securities belonging to the National Co-operative Development Fund which, immediately before

the said date, was maintained by the National Co-operative Development and Warehousing Board established under the repealed Act (hereinafter referred to as the said Board), shall stand transferred to, and be maintained by, the Corporation established under section 3 of this Act;

(b) all moneys and other securities belonging to the National Warehousing Development Fund which, immediately before the said date, was maintained by the said Board under the repealed Act, shall stand transferred to and be maintained by the Central Warehousing Corporation;

(c) all shares in the capital of the Central Warehousing Corporation held by the said Board shall stand transferred to the Central Government subject to the same liabilities as to payment of unpaid calls on such shares as the said Board was subject to;

(d) anything done or any action taken (including any loan advanced, subsidy granted and appointment, delegation, rule or regulation made) under the repealed Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under this Act; and

(e) all rights, liabilities and obligations of the said Board, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations respectively of the Corporation established under section 3 of this Act.

#### THE SCHEDULE

(See section 20)

#### DECLARATION OF FIDELITY AND SECRECY

I..... declare that I will faithfully, truly and to the best of my judgment, skill and ability execute and perform the duties which are required of me as a member, officer, employee or auditor (as the case may be) of the National Co-operative Development Corporation and which properly relate to the office or position in the said Corporation held by me.

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

Signature

Signature

Signature

Signed before me

Date

## THE STATE OF NAGALAND ACT, 1962

### ARRANGEMENT OF SECTIONS

#### PART I

##### PRELIMINARY

###### SECTIONS

1. Short title.
2. Definitions.

#### PART II

##### FORMATION OF THE STATE OF NAGALAND

3. Formation of State of Nagaland.
4. Amendment of First Schedule to the Constitution.
5. Amendment of Sixth Schedule to the Constitution.

#### PART III

##### REPRESENTATION IN THE LEGISLATURES

###### *The Council of States*

6. Representation in Council of States.
7. Election to fill vacancy.
8. Term of office.

###### *The House of the People*

9. Representation in House of the People.
10. Provision as to sitting member.

###### *The Legislative Assembly*

11. Strength of Legislative Assembly.
12. Rules of Procedure.

#### PART IV

##### HIGH COURT

13. Common High Court for Assam and Nagaland.
14. Provisions as to Advocates.
15. Practice and procedure in common High Court.
16. Custody of Seal of common High Court.

**SECTIONS**

17. Form of writs and other processes.
18. Powers of Judges.
19. Principal seat of common High Court.
20. Procedure as to appeals to Supreme Court.
21. Pending suits, appeals and proceedings.

**PART V****FINANCIAL PROVISIONS**

22. Authorisation of expenditure pending its sanction by Legislature.
23. Distribution of revenues.
24. Property, assets, rights, liabilities and obligations.
25. Arrears of taxes.

**PART VI****LEGAL AND MISCELLANEOUS PROVISIONS**

26. Continuance of existing laws and their adaptation.
27. Power to construe laws.
28. Provisions as to continuance of courts and of officers, etc.
29. Amendment of Act 37 of 1956.
30. Effect of provisions of Act inconsistent with other laws.
31. Power to remove difficulties.
32. Power to make rules.
33. Repeal.

**THE SCHEDULE**

## THE STATE OF NAGALAND ACT 1962

No. 27 OF 1962

[4th September, 1962]

An Act to provide for the formation of the State of Nagaland and for matters connected therewith.

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

### PART I

#### PRELIMINARY

Short title.

1. This Act may be called the State of Nagaland Act, 1962.

Definitions.

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

(a) "appointed day" means the day which the Central Government may, by notification in the Official Gazette, appoint;

(b) "article" means an article of the Constitution;

(c) "assembly constituency" and "parliamentary constituency" have the same meanings as in the Representation of the People Act, 1950; 43 of 1950

(d) "law" includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument or custom or usage having the force of law;

(e) "Naga Hills-Tuensang Area" means the Naga Hills-Tuensang Area specified in Part B of the Table appended to paragraph 20 of the Sixth Schedule to the Constitution, comprising the areas which at the commencement of the Constitution were known as the Naga-Hills District and the Naga Tribal Area;

(f) "regional council" means the regional council referred to in article 371A.

## PART II

## FORMATION OF THE STATE OF NAGALAND

3. (1) As from the appointed day, there shall be formed a new State to be known as the State of Nagaland comprising the territories which immediately before that day were comprised in the Naga Hills-Tuensang Area and thereupon the said territories shall cease to form part of the State of Assam.

(2) Without prejudice to the power of the State Government to alter after the appointed day, the name, extent or boundaries of any district, the State of Nagaland shall consist of three districts to be called the Kohima district, Mokokchung district and Tuensang district, each comprising the areas respectively set out in the Schedule.

4. As from the appointed day, in the First Schedule to the Constitution, under the heading "I. THE STATES"—

(a) in the paragraph relating to the territories of the State of Assam, the following shall be added at the end, namely:—

"and the territories specified in sub-section (1) of section 3 of the State of Nagaland Act, 1962";

(b) after entry 15, the following entry shall be inserted, namely:—

"16. Nagaland . . . The territories specified in sub-section (1) of section 3 of the State of Nagaland Act, 1962."

5. As from the appointed day, in the Sixth Schedule to the Constitution—

(a) in paragraph 20—

(i) sub-paragraph (2B) shall be omitted;

(ii) in sub-paragraph (3), the brackets and words "other than the Naga Hills-Tuensang Area" shall be omitted;

(b) in the Table appended to paragraph 20, in Part B, the item "2. The Naga Hills-Tuensang Area" shall be omitted.

Formation  
of State of  
Nagaland.

Amendment  
of First  
Schedule to  
the Constitu-  
tion.

Amendment  
of Sixth  
Schedule to  
the Constitu-  
tion.

## PART III

## REPRESENTATION IN THE LEGISLATURES

*The Council of States*

6. As from the appointed day—

(a) there shall be allotted one seat to the State of Nagaland in the Council of States;

Represen-  
tation in  
Council of  
States.

(b) in the Fourth Schedule to the Constitution, in the Table—

(i) entries 16 to 19 shall be renumbered as entries 17 to 20;

(ii) after entry 15, the following entry shall be inserted, namely:—

“16. Nagaland . . . . 1”;

(iii) at the end, for the figures “224”, the figures “225” shall be substituted.

**Election to fill vacancy.**

7. As soon as may be after the appointed day, there shall be held an election to fill the seat allotted to the State of Nagaland in the Council of States.

**Term of office.**

8. The term of office of the member for the first time elected to fill the seat allotted to the State of Nagaland in the Council of States shall expire on the 2nd day of April, 1968.

*The House of the People*

**Representation in House of the People.**

9. (1) As from the appointed day—

(a) there shall be allotted one seat to the State of Nagaland in the House of the People;

(b) in the First Schedule to the Representation of the People Act, 1950,—

(i) the entry “25. Naga Hills-Tuensang Area . . . . 1” shall be omitted;

(ii) entries 16 to 24 shall be renumbered as entries 17 to 25;

(iii) after entry 15, the following entry shall be inserted, namely:—

“16. Nagaland . . . . 1”.

(2) The whole of the State of Nagaland shall form one parliamentary constituency to be called the parliamentary constituency of Nagaland for the purpose of filling the seat allotted to that State in the House of the People.

(3) For the period referred to in clause (2) of article 371A, section 13D of the Representation of the People Act, 1950, shall apply in relation to the parliamentary constituency of Nagaland with the modification that it shall be necessary to prepare and revise separately the electoral roll for that part of the said parliamentary constituency which comprises the Tuensang district and the provisions of Part III of that Act shall apply in relation to the said part as they apply in relation to an assembly constituency.

10. The sitting member of the House of the People representing, immediately before the appointed day, the Naga Hills-Tuensang Area shall, as from that day, represent the State of Nagaland in that House and shall continue to do so until a person is elected in accordance with law to fill the seat allotted to the parliamentary constituency of Nagaland.

Provision as  
to sitting  
member.

*The Legislative Assembly*

11. (1) The total number of seats to be filled by persons chosen by direct election in the Legislative Assembly of Nagaland shall be 60:

Provided that for the period referred to in clause (2) of article 371A, the total number of seats in the Legislative Assembly of Nagaland shall be 46, of which—

(a) six seats shall be allocated to the Tuensang district and shall be filled by persons chosen by the members of the regional council from amongst themselves in such manner as the Governor, after consulting that council, may by notification in the Official Gazette specify, and

(b) the remaining forty seats shall be filled by persons chosen by direct election from assembly constituencies in the rest of the State of Nagaland.

43 of 1950.

(2) In the Representation of the People Act, 1950,—

(a) in section 7, the following proviso shall be inserted at the end, namely:—

“Provided that for the period referred to in clause (2) of article 371A, the total number of seats allotted to the Legislative Assembly of Nagaland shall be 46, of which—

(a) six seats shall be allocated to the Tuensang district and shall be filled by persons chosen by the members of the regional council referred to in that article from amongst themselves in such manner as the Governor, after consulting that council, may by notification in the Official Gazette specify, and

(b) the remaining forty seats shall be filled by persons chosen by direct election from assembly constituencies in the rest of the State of Nagaland.”;

(b) in the Second Schedule, after entry 14, the following entry shall be inserted, namely:—

“15. Nagaland . . . 60 [for the period referred to in clause (2) of article 371A, 46].”

(3) In the Representation of the People Act, 1951, in section 5, 43 of 1951, in clause (c), the following proviso shall be inserted at the end, namely:—

“Provided that for the period referred to in clause (2) of article 371A, a person shall not be qualified to be chosen to fill any seat allocated to the Tuensang district in the Legislative Assembly of Nagaland unless he is a member of the regional council referred to in that article.”.

(4) The Election Commission shall delimit the assembly constituencies in accordance with the provisions of the Constitution on the basis of the latest census figures, and in doing so the Commission shall have regard to the following provisions, namely:—

(a) all constituencies shall, as far as practicable, consist of geographically compact areas, and in delimiting them, regard shall be had to physical features, existing boundaries of administrative units, facilities of communication, public convenience and linguistic affinities of the people,

(b) all constituencies shall be single-member constituencies, and

(c) the population of each constituency shall not, as far as practicable, be more than six thousand.

(5) For the purpose of assisting the Election Commission in the performance of its functions under this section, the Commission shall associate with itself five persons of whom three shall be elected by the members of the Interim Body established under section 3 of the Nagaland (Transitional Provisions) Regulation, 1961, from Regulation among themselves and two shall be nominated by the Central Government:

Provided that none of the said associate members shall have a right to vote or to sign any decision of the Election Commission.

(6) The Election Commission shall—

(a) formulate its proposals in regard to the matters mentioned in sub-section (4) and publish them in the Official Gazette of the State of Assam and in such other manner as the Commission may consider fit, together with a notice inviting objections and suggestions in relation to the proposals and specifying a date on or after which the proposals will be further considered by it;

(b) consider all objections and suggestions which may have been received by it before the date so specified, and for the purpose of such consideration hold one or more public sittings at such place or places as it may think fit;

(c) after considering all objections and suggestions which may have been received by it before the date so specified, determine the matters mentioned in sub-section (4) by one or more final orders and cause such order or orders to be published in the Official Gazette of the State of Assam; and upon such publication the order or orders shall have the full force of law and shall not be called in question in any court;

(d) amend the Delimitation of Parliamentary and Assembly Constituencies Order, 1961, so as to include therein the parliamentary constituency of Nagaland and the assembly constituencies delimited under this section.

12. The rules as to procedure and conduct of business in force immediately before the appointed day with respect to the Legislative Assembly of Assam shall, until rules are made under clause (1) of article 208, have effect in relation to the Legislative Assembly of Nagaland, subject to such modifications and adaptations as may be made therein by the Speaker thereof. Rules of procedure.

#### PART IV

##### HIGH COURT

13. (1) As from the appointed day,—

(a) there shall be a common High Court for the State of Assam and the State of Nagaland to be called the High Court of Assam and Nagaland (hereinafter referred to as the common High Court); Common High Court for Assam and Nagaland.

(b) the Judges of the High Court of Assam holding office immediately before that day shall, unless they have elected otherwise, become on that day the Judges of the common High Court.

(2) Expenditure in respect of the salaries and allowances of the Judges of the common High Court shall be allocated between the State of Assam and the State of Nagaland in such proportion as the President may by order determine.

14. (1) As from the appointed day,—

25 of 1961.

(a) in the Advocates Act, 1961, in section 3, in sub-section

Provision as to Advo-  
cates.

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

“(b) for the States of Assam and Nagaland and the Union territory of Manipur, to be known as the Bar Council of Assam and Nagaland;”;

(b) the Bar Council of Assam shall be deemed to be the Bar Council of Assam and Nagaland.

(2) Any person who immediately before the appointed day is an advocate entitled to practise in the High Court of Assam shall be entitled to practise as an advocate in the common High Court.

(3) All persons who immediately before the appointed day are advocates on the roll of the Bar Council of Assam shall as from that day become advocates on the roll of the Bar Council of Assam and Nagaland.

(4) The right of audience in the common High Court shall be regulated in accordance with the like principles as, immediately before the appointed day, are in force with respect to the right of audience in the High Court of Assam:

Provided that as between the Advocate-General of Assam and the Advocate-General of Nagaland the right of audience shall be determined with reference to their respective dates of enrolment as advocates.

Practice and procedure in common High Court.

15. Subject to the provisions of this Part, the law in-force immediately before the appointed day with respect to practice and procedure in the High Court of Assam shall, with necessary modifications, apply in relation to the common High Court.

Custody of Seal of common High Court.

16. The law in force immediately before the appointed day with respect to the custody of the Seal of the High Court of Assam shall, with necessary modifications, apply with respect to the custody of the Seal of the common High Court.

Form of writs and other processes.

17. The law in force immediately before the appointed day with respect to the form of writs and other processes used, issued or awarded by the High Court of Assam shall, with necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the common High Court.

Powers of Judges.

18. The law in force immediately before the appointed day with respect to the powers of the Chief Justice, single Judges and division courts of the High Court of Assam and with respect to all matters ancillary to the exercise of those powers shall, with necessary modifications, apply in relation to the common High Court.

Principal seat of common High Court.

19. The principal seat of the common High Court shall, unless otherwise determined by the Chief Justice after consultation with the Governors of Assam and Nagaland, be at the same place as the principal seat of the High Court of Assam immediately before the appointed day.

Procedure as to appeals to Supreme Court.

20. The law in force immediately before the appointed day relating to appeals to the Supreme Court from the High Court of Assam and the Judges and division courts thereof shall, with necessary modifications, apply in relation to the common High Court.

**21.** All suits, appeals and proceedings, civil, criminal or otherwise, pending in the High Court of Assam immediately before the appointed day shall, on that day, stand removed to the common High Court and the common High Court shall have jurisdiction to hear and determine the same, and the judgments, decrees, sentences and orders of the High Court of Assam delivered, passed or made before the appointed day shall have the same force and effect as if they had been delivered, passed or made by the common High Court.

Pending  
suits,  
appeals and  
proceedings.

#### PART V

#### FINANCIAL PROVISIONS

**22.** The President may, at any time before the appointed day, Authorisation of expenditure from the Consolidated Fund of the State of Nagaland as he deems necessary for a period of not more than six months beginning with the appointed day, pending the sanction of such expenditure by the Legislature of the State of Nagaland:

Authorisa-  
tion of ex-  
penditure  
pending its  
sanction by  
Legislature.

Provided that the Governor of Nagaland may, after the appointed day, authorise such further expenditure as he deems necessary from the Consolidated Fund of the State of Nagaland for any period not extending beyond the said period of six months.

**23.** The President shall by order determine the grants-in-aid of Distribution of revenues. the revenues of the State of Nagaland and the share of that State in the Union duties of excise, estate duty and taxes on income and for that purpose amend thereby the relevant provisions of the Union Duties of Excise (Distribution) Act, 1962, the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Estate Duty (Distribution) Act, 1962, and the Constitution (Distribution of Revenues) Order, 1962, in such manner as he thinks fit.

8 of 1962.  
58 of 1957.  
9 of 1962.  
C.O. 63.

**24. (1)** All property and assets situated in, or used for, or in connection with the administration of, the Naga Hills-Tuensang Area and vested in the Union immediately before the appointed day (other than any property or assets so vested for purposes of the Union) shall, as from that day, vest in the State of Nagaland:

Property,  
assets,  
rights,  
liabilities  
and obliga-  
tions.

Provided that the cash balances in the treasuries in the Naga Hills-Tuensang Area immediately before the appointed day shall, as from that day, vest in the State of Nagaland.

**(2)** All rights, liabilities and obligations of the Central Government, whether arising out of any contract or otherwise, which are, immediately before the appointed day, the rights, liabilities and obligations of the Central Government arising out of or in connection with the administration of the Naga Hills-Tuensang Area shall, as from that day, be the rights, liabilities and obligations of the Government of the State of Nagaland.

**Arrears of taxes.**

25. The right to recover arrears of any tax or duty (being a tax or duty enumerated in the State List in the Seventh Schedule to the Constitution) which have fallen due in the Naga Hills-Tuensang Area shall pass to the State of Nagaland.

## PART VI

### LEGAL AND MISCELLANEOUS PROVISIONS

**Continuance of existing laws and their adaptation.**

26. (1) All laws in force, immediately before the appointed day, in the Naga Hills-Tuensang Area shall continue to be in force in the State of Nagaland until altered, repealed or amended by a competent Legislature or other competent authority.

(2) For the purpose of facilitating the application in relation to the State of Nagaland of any law made before the appointed day, the appropriate Government may, within two years from that day, by order make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

*Explanation.*—In this section, the expression “appropriate Government” means, as respects any law relating to a matter enumerated in the Union List in the Seventh Schedule to the Constitution, the Central Government; and as respects any other law, the Government of Nagaland.

**Power to construe laws.**

27. Notwithstanding that no provision or insufficient provision has been made under section 26 for the adaptation of law made before the appointed day, any court, tribunal or authority required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the State of Nagaland, construe the law in such manner not affecting the substance as may be necessary or proper in regard to the matter before the court, tribunal or authority, as the case may be.

**Provisions as to continuance of courts and of officers, etc.**

28. (1) All courts and tribunals and all authorities discharging lawful functions throughout the Naga Hills-Tuensang Area or any part thereof immediately before the appointed day shall, unless their continuance is inconsistent with the provisions of this Act or until other provision is made by a competent Legislature or other competent authority, continue to exercise their respective functions.

(2) Every person who, immediately before the appointed day, is holding or discharging the duties of any post or office in connection with the administration of the Naga Hills-Tuensang Area or any part

thereof shall, except where by virtue or in consequence of the provisions of this Act such post or office ceases to exist on that day, continue to hold the same post or office in the State of Nagaland, and shall be deemed, as from that day, to have been duly appointed to such post or office by the Government of, or other appropriate authority in, such State.

(3) Nothing in sub-section (2) shall be deemed to prevent a competent authority, after the appointed day, from passing in relation to any such person any order affecting his continuance in such post or office.

**29.** As from the appointed day, in section 15 of the States Amendment Reorganisation Act, 1956, in clause (c), for the words, "and Assam", <sup>of Act 37 of 1956.</sup> the words "Assam and Nagaland" shall be substituted.

**30.** The Provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

Effect of provisions of Act inconsistent with other laws.

**31.** (1) If any difficulty arises in giving effect to the provisions of this Act, the President may, by order, do anything not inconsistent with such provisions which appears to him to be necessary or expedient for the purpose of removing the difficulty.

(2) Every order made under this section shall be laid before each House of Parliament.

**32.** (1) The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions 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 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.

**33.** As from the appointed day, the Nagaland (Transitional Provisions) Regulation, 1961, shall stand repealed.

Regulation  
of 1961.

Repeal.

## THE SCHEDULE

[See section 3(2)]

<i>District</i>	<i>Areas</i>
1. Kohima	The areas which immediately before the 1st day of December, 1957, were comprised in the Naga Hills District excluding the areas in Mokokchung district as specified in item No. 2.
2. Mokokchung	The areas which immediately before the 1st day of December, 1957, were comprised in the Mokokchung sub-division of the Naga Hills District.
3. Tuensang	The areas which immediately before the 1st day of December, 1957, were comprised in the Tuensang Frontier Division of the North East Frontier Agency.

THE APPROPRIATION (No. 4) ACT, 1962

No. 28 OF 1962

[5th September, 1962]

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.

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

1. This Act may be called the Appropriation (No. 4) Act, 1962. 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 eight crores, forty-two lakhs and thirty-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 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	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
9	Defence Services, Effective—Army	1,000	..	1,000
10	Defence Services, Effective—Navy	1,000	..	1,000
11	Defence Services, Effective—Air Force	1,000	..	1,000
23	Ministry of Finance	..	13,000	13,000
44	Other Revenue Expenditure of the Ministry of Food and Agriculture	8,00,00,000	..	8,00,00,000
49	Cabinet	3,87,000	..	3,87,000
78	Other Revenue Expenditure of the Ministry of Mines and Fuel	..	21,000	21,000
102	Stationery and Printing	..	1,000	1,000
114	Defence Capital Outlay	11,37,000	..	11,37,000
126	Other Capital Outlay of the Ministry of Food and Agriculture	..	1,70,000	1,70,000
129	Capital Outlay of the Ministry of Information and Broadcasting	..	2,000	2,000
133	Capital Outlay of the Ministry of Mines and Fuel	25,00,000	..	25,00,000
139	Other Capital Outlay of the Ministry of Transport and Communications	..	4,000	4,000
TOTAL		8,40,27,000	2,11,000	8,42,38,000

THE APPROPRIATION (RAILWAYS) No. 4 ACT, 1962

No. 29 OF 1962

[5th September, 1962]

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 Thirteenth year of the Republic of India as follows:—

1. This Act may be called the Appropriation (Railways) No. 4 Short title. Act, 1962.

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 rupees seventeen lakhs 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.

Issue of Rs.  
17,00,000  
out of the  
Consolidat-  
ed Fund of  
India for  
the financial  
year 1962-  
63.

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 Consoiidated Fund	Total
		Rs.	Rs.	Rs.
2	Miscellaneous Expenditure . . .	12,00,000	..	12,00,000
17	Open Line Works—Replacements . . .	5,00,000	..	5,00,000
	TOTAL . . .	17,00,000	..	17,00,000

# THE ASSAM RIFLES (AMENDMENT) ACT, 1962

No. 30 OF 1962

[11th September, 1962]

An Act further to amend the Assam Rifles Act, 1941.

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

1. This Act may be called the Assam Rifles (Amendment) Act, short title. 1962.

5 of 1941. 2. In section 1 of the Assam Rifles Act, 1941 (hereinafter referred to as the principal Act), in sub-section (2), for the words "the whole of Assam", the words "the whole of India" shall be substituted. Amendment of section 1.

3. For section 10 of the principal Act, the following sections shall be substituted, namely:— Substitution of new sections for section 10.

1 of 1872. "10. (1) A Commandant, Assistant Commandant or rifleman shall be entitled to all the privileges which a police officer has under section 125 of the Indian Evidence Act, 1872, and any other enactment for the time being in force. Privileges of, and protection for acts done by, Commandant, Assistant Commandant, etc.

(2) In any suit or proceeding against a Commandant, Assistant Commandant or rifleman for any act done by him in pursuance of a warrant or order of a competent authority, it shall be lawful for him to plead that such act was done by him under the authority of such warrant or order.

(3) Any such plea may be proved by the production of the warrant or order directing the act, and if it is so proved, the Commandant, Assistant Commandant or rifleman, as the case may be, shall thereupon be discharged from liability in respect of the act so done by him, notwithstanding any defect in the jurisdiction of the authority which issued such warrant or order.

(4) Notwithstanding anything contained in any other law for the time being in force, any legal proceeding (whether civil or criminal) which may lawfully be brought against a Commandant, Assistant Commandant or rifleman for anything done or

intended to be done under the powers conferred by, or in pursuance of, any provision of this Act or the orders or rules made thereunder, shall be commenced within three months after the act complained of was committed and not otherwise, and notice in writing of such proceeding and of the cause thereof shall be given, where the defendant is a rifleman, to his superior officer, and in other cases, to the defendant, at least one month before the commencement of such proceeding.

Powers and  
duties that  
may be  
conferred or  
imposed by  
the Central  
Government  
on Com-  
mandant,  
Assistant  
Comman-  
dant, etc.

10A. (1) The Central Government may, by general or special order, confer or impose upon any Commandant, Assistant Commandant or rifleman, any of the powers or duties conferred or imposed on a police officer of any class or grade by any law for the time being in force.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, the Central Government may invest any Commandant or Assistant Commandant with the powers of a Magistrate of any class for the purpose of inquiring into or trying any offence committed by a rifleman and punishable under this Act or any offence committed by a rifleman against the person or property of another rifleman or of any person acting with or assisting the Assam Rifles".

# THE LAND ACQUISITION (AMENDMENT) ACT, 1962

No. 31 OF 1962

[12th September, 1962]

An Act further to amend the Land Acquisition Act, 1894, and to validate certain acquisitions under that Act.

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

1. This Act may be called the Land Acquisition (Amendment) Short title. Act, 1962.

1 of 1894. 2. In section 3 of the Land Acquisition Act, 1894 (hereinafter referred to as the principal Act), in clause (e), the following words of section 3. shall be added at the end, namely:—

“or any other law relating to co-operative societies for the time being in force in any State.”

3. In sub-section (1) of section 40 of the principal Act, after clause (a), the following clause shall be inserted, namely:—

“(aa) that such acquisition is needed for the construction of some building or work for a Company which is engaged or is taking steps for engaging itself in any industry or work which is for a public purpose; or”.

4. In section 41 of the principal Act,—

(a) for the words “the purpose of the proposed acquisition is to obtain land for the erection of dwelling houses for workmen employed by the Company or for the provision of amenities directly connected therewith, or that the proposed acquisition is needed for the construction of a work, and that such work is likely to prove useful to the public”, the words, brackets, letters and figures “the proposed acquisition is for any of the purposes referred to in clause (a) or clause (aa) or clause (b) of sub-section (1) of section 40” shall be substituted;

Amendment of section 41.

(b) in clause (4), the word “and” occurring at the end shall be omitted, and after that clause, the following clause shall be inserted, namely:—

"(4A) where the acquisition is for the construction of any building or work for a Company which is engaged or is taking steps for engaging itself in any industry or work which is for a public purpose, the time within which, and the conditions on which, the building or work shall be constructed or executed; and".

Insertion of  
new sections  
44A and  
44B.

Restriction  
on transfer,  
etc.

Land not to  
be acquired  
under this  
Part except  
for certain  
purpose for  
private  
companies  
other than  
Government  
companies.

Amendment  
of section 55.

5. In Part VII of the principal Act, after section 44, the following sections shall be inserted, namely:—

"44A. No Company for which any land is acquired under this Part shall be entitled to transfer the said land or any part thereof by sale, mortgage, gift, lease or otherwise except with the previous sanction of the appropriate Government.

44B. Notwithstanding anything contained in this Act, no land shall be acquired under this Part, except for the purpose mentioned in clause (a) of sub-section (1) of section 40, for a private company which is not a Government company.

*Explanation.*—‘Private company’ and ‘Government company’ shall have the meanings respectively assigned to them in the Companies Act, 1956."

1 of 1956.

6. In section 55 of the principal Act, to sub-section (1), the following provisos shall be added, namely:—

"Provided that the power to make rules for carrying out the purposes of Part VII of this Act shall be exercisable by the Central Government and such rules may be made for the guidance of the State Governments and the officers of the Central Government and of the State Governments:

Provided further that every such rule made 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 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."

7. Notwithstanding any judgment, decree or order of any court, every acquisition of land for a Company made or purporting to have been made under Part VII of the principal Act before the 20th day of July, 1962, shall, in so far as such acquisition is not for any of the purposes mentioned in clause (a) or clause (b) of sub-section (1) of section 40 of the principal Act, be deemed to have been made for the purpose mentioned in clause (aa) of the said sub-section, and accordingly every such acquisition and any proceeding, order, agreement or action in connection with such acquisition shall be, and shall be deemed always to have been, as valid as if the provisions of sections 40 and 41 of the principal Act, as amended by this Act, were in force at all material times when such acquisition was made or proceeding was held or order was made or agreement was entered into or action was taken.

Validation  
of certain  
acquisi-  
tions.

*Explanation.*—In this section “Company” has the same meaning as in clause (e) of section 3 of the principal Act, as amended by this Act.

**8 of 1962.** 8. (1) The Land Acquisition (Amendment) Ordinance, 1962, is hereby repealed.

Repeal and  
saving.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act, as if this Act had commenced on the 20th day of July, 1962.

## THE ADVOCATES (THIRD AMENDMENT) ACT, 1962

No. 32 OF 1962

[14th September, 1962]

An Act further to amend the Advocates Act, 1961.

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 Advocates (Third Amendment) Act, 1962.

**Amendment  
of section  
24.**

2. In sub-section (1) of section 24 of the Advocates Act, 1961 ~~25 of 196~~ (hereinafter referred to as the principal Act), for the figures, letters and words "28th day of February, 1962", wherever they occur, the figures, letters and words "28th day of February, 1963" shall be substituted and shall be deemed always to have been substituted.

**Amendment  
of section  
58.**

3. In section 58 of the principal Act, in sub-section (4),—

(i) for the words "relating to the admission and enrolment of legal practitioners, the provisions of those Acts", the words "or of any other law relating to the admission and enrolment of legal practitioners, the provisions of the Acts and law aforesaid" shall be substituted and shall be deemed always to have been substituted;

(ii) after the words "aforesaid Acts", the words "or of the other law" shall be inserted and shall be deemed always to have been inserted.

**Insertion of  
new section  
60.**

4. After section 59 of the principal Act, the following section shall be inserted, namely:—

**Powers of  
Central Gov-  
ernment to  
make rules.**

"60. (1) Until rules in respect of any matter under this Act are made by a State Bar Council and approved by the Bar Council of India, the power to make rules in respect of that matter shall be exercisable by the Central Government.

(2) The Central Government after consultation with the Bar Council of India may, by notification in the Official Gazette, make rules under sub-section (1) either for any State Bar Council or generally for all State Bar Councils and the rules so made shall have effect, notwithstanding anything contained in this Act.

(3) Where in respect of any matter any rules are made by the Central Government under this section for any State Bar Council, and in respect of the same matter, rules are made by the State Bar Council and approved by the Bar Council of India, the Central Government may, by notification in the Official Gazette, direct that the rules made by it in respect of such matter shall cease to be in force in relation to that Bar Council with effect from such date as may be specified in the notification and on the issue of such notification, the rules made by the Central Government shall, accordingly, cease to be in force except as respects things done or omitted to be done before the said date.",

## THE ATOMIC ENERGY ACT, 1962

### ARRANGEMENT OF SECTIONS

#### SECTIONS

1. Short title, extent and commencement.
2. Definitions and interpretation.
3. General powers of the Central Government.
4. Notification of discovery of uranium or thorium.
5. Control over mining or concentration of substances containing uranium.
6. Disposal of uranium.
7. Power to obtain information regarding materials, plant or processes.
8. Power of entry and inspection.
9. Power to do work for discovering minerals.
10. Compulsory acquisition of rights to work minerals.
11. Compulsory acquisition of prescribed substances, minerals and plants.
12. Compensation in case of compulsory acquisition of a mine.
13. Novation of certain contracts.
14. Control over production and use of atomic energy.
15. Requisitioning of any substance for extracting uranium or plutonium.
16. Control over radioactive substances.
17. Special provisions as to safety.
18. Restriction on disclosure of information.
19. Prevention of entry into prohibited areas.
20. Special provisions as to inventions.
21. Principles relating to payment of compensation.
22. Special provision as to electricity.
23. Administration of Factories Act, 1948.
24. Offences and penalties.
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## SECTIONS

26. Cognizance of offences.
27. Delegation of powers.
28. Effect of other laws.
29. Protection of action taken in good faith.
30. Power to make rules.
31. Act binding on Government.
32. Repeal of Act 29 of 1948.

# THE ATOMIC ENERGY ACT, 1962

NO. 33 OF 1962

[15th September, 1962]

An Act to provide for the development, control and use of atomic energy for the welfare of the people of India and for other peaceful purposes and for matters connected therewith.

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

Short title,  
extent and  
commencement.

1. (1) This Act may be called the Atomic Energy Act, 1962.  
(2) It extends to the whole of India.  
(3) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint.

Definitions  
and interpre-  
tation.

2. (1) In this Act, unless the context otherwise requires,—
  - (a) “atomic energy” means energy released from atomic nuclei as a result of any process, including the fission and fusion processes;
  - (b) “fissile material” means uranium 233, uranium 235, plutonium or any material containing these substances or any other material that may be declared as such by notification by the Central Government;
  - (c) “minerals” include all substances obtained or obtainable from the soil (including alluvium or rocks) by underground or surface working;
  - (d) “notification” means notification published in the Official Gazette;
  - (e) “plant” includes machinery, equipment or appliance, whether affixed to land or not;

<sup>1</sup>21st September, 1962, *vide* Notification No. G.S.R. 1254, dated 18-9-1962, Gazette of India, Extraordinary, Pt. II, Sec. 3(i), p. 481.

(f) "prescribed equipment" means any property which the Central Government may, by notification, prescribe, being a property which in its opinion is specially designed or adapted or which is used or intended to be used for the production or utilisation of any prescribed substance, or for the production or utilisation of atomic energy, radioactive substances, or radiation, but does not include mining, milling, laboratory and other equipment not so specially designed or adapted and not incorporated in equipment used or intended to be used for any of the purposes aforesaid;

(g) "prescribed substance" means any substance including any mineral which the Central Government may, by notification, prescribe, being a substance which in its opinion is or may be used for the production or use of atomic energy or research into matters connected therewith and includes uranium, plutonium, thorium, beryllium, deuterium or any of their respective derivatives or compounds or any other materials containing any of the aforesaid substances;

(h) "radiation" means gamma rays, X-rays, and rays consisting of alpha particles, beta particles, neutrons, protons and other nuclear and sub-atomic particles; but not sound or radio waves, or visible, infrared or ultraviolet light;

(i) "radioactive substance" or "radioactive material" means any substance or material which spontaneously emits radiation in excess of the levels prescribed by notification by the Central Government.

(2) Any reference in this Act to the working of minerals shall be construed as including a reference to the mining, getting, carrying away, transporting, sorting, extracting or otherwise treating of minerals.

(3) Any reference in this Act to the production or use of atomic energy shall be construed as including a reference to the carrying out of any process, preparatory or ancillary to such production or use.

3. Subject to the provisions of this Act, the Central Government shall have power—

(a) to produce, develop, use and dispose of atomic energy and carry out research into any matters connected therewith;

(b) to manufacture or otherwise produce, buy or otherwise acquire, store and transport any prescribed or radioactive substance and any articles which in its opinion are, or are likely to

General  
powers of  
the Central  
Government.

be, required for or in connection with the production, development or use of atomic energy or such research as aforesaid and to dispose of any articles manufactured or otherwise produced, bought or otherwise acquired by it;

(c) to declare as "restricted information" any information not so far published or otherwise made public relating to—

(i) the location, quality and quantity of prescribed substances and transactions for their acquisition, whether by purchase or otherwise, or disposal, whether by sale or otherwise;

(ii) the processing of prescribed substances and the extraction or production of fissile materials from them;

(iii) the theory, design, construction and operation of plants for the treatment and production of any of the prescribed substances and for the separation of isotopes;

(iv) the theory, design, construction and operation of nuclear reactors;

(v) research and technological work on materials and processes involved in or derived from items (i) to (iv);

(d) to declare as "prohibited area" any area or premises where work including research, design or development is carried on in respect of the production, treatment, use, application or disposal of atomic energy or of any prescribed substance;

(e) to provide for control over radioactive substances or radiation generating plant in order to—

(i) prevent radiation hazards;

(ii) secure public safety and safety of persons handling radioactive substances or radiation generating plant; and

(iii) ensure safe disposal of radioactive wastes;

(f) to provide for the production and supply of electricity from atomic energy and for taking measures conducive to such production and supply and for all matters incidental thereto; and

(g) to do all such things (including the erection of buildings and execution of works and the working of minerals) as the Central Government considers necessary or expedient for the exercise of the foregoing powers.

4. (1) Every person who, whether before or after the commencement of this Act, has discovered or discovers that uranium or thorium occurs at any place in India shall, within three months after the date of commencement of this Act or after the discovery, whichever is later, report the discovery in writing to the Central Government or to any person or authority authorised by the Central Government in this behalf.

Notification  
of discovery  
of uranium  
or thorium.

(2) Every person who has reason to believe that uranium or thorium occurs at any place in India shall, without delay, send intimation of such belief and the reasons therefor to the Central Government or to any such person or authority as aforesaid.

5. (1) If the Central Government is satisfied that any person is mining or is about to mine any substance from which, in the opinion of the Central Government, uranium can be or may reasonably be expected to be, isolated or extracted, or is engaged or is about to be engaged in treating or concentrating by any physical, chemical or metallurgical process any substance from which, in the opinion of the Central Government, uranium can be or may reasonably be expected to be, isolated or extracted, the Central Government may by notice in writing given to that person either—

Control  
over min-  
ing or  
concentra-  
tion of sub-  
stances  
containing  
uranium.

(a) require him in conducting the mining operations or in treating or concentrating the substance aforesaid to comply with such terms and conditions and adopt such processes as the Central Government may in the notice, or from time to time thereafter, think fit to specify, or

(b) totally prohibit him from conducting the mining operations or treating or concentrating the substance aforesaid.

(2) Where any terms and conditions are imposed on any person conducting any mining operations or treating or concentrating any substance under clause (a) of sub-section (1), the Central Government may, having regard to the nature of the terms and conditions, decide as to whether or not to pay any compensation to that person and the decision of the Central Government shall be final:

Provided that where the Central Government decides not to pay any compensation, it shall record in writing a brief statement giving the reasons for such decision.

(3) Where the Central Government decides to pay any compensation under sub-section (2), the amount thereof shall be determined in accordance with section 21 but in calculating the compensation payable, no account shall be taken of the value of any uranium contained in the substance referred to in sub-section (1).

(4) Where any mining operation or any process of treatment or concentration of any substance is prohibited under clause (b) of sub-section (1), the Central Government shall pay compensation to the person conducting the mining operations or using the process of treatment or concentration and the amount of such compensation shall be determined in accordance with section 21 but in calculating the compensation payable, no account shall be taken of the value of any uranium contained in the substance.

**Disposal of uranium.**

6. (1) No minerals, concentrates and other materials which contain uranium in its natural state in excess of such proportion as may be prescribed by notification by the Central Government shall be disposed of except with the previous permission in writing of the Central Government and in accordance with such terms and conditions as it may impose.

(2) The Central Government may serve notice on any person who has produced any mineral, concentrate or other material referred to in sub-section (1) that the Central Government proposes to acquire it and upon the service of the notice and the payment of compensation in accordance with section 21, the mineral, concentrate or other material shall become the property of the Central Government and shall be delivered to the Central Government or as it may direct:

Provided that in determining the compensation regard shall be had to the cost of production of such mineral, concentrate or other material and such other factors as may be relevant, but no account shall be taken of the value of uranium in its natural state contained therein.

**Powers to obtain information regarding materials, plant or processes.**

7. The Central Government may, by notice in writing served on any person, require him to make such periodical and other returns, or statements at such times and containing such particulars and accompanied by such plans, drawings and other documents as may be specified in the notice relating to—

(a) any prescribed substance, specified in the notice, in his possession or under his control or present in or on any land or mine owned or occupied by him which in the opinion of the Central Government is or can be a source of any of the prescribed substances, including returns in respect of any such land or mine;

(b) any plant in his possession or under his control designed for mining or processing of minerals so specified, or adapted for the production or use of atomic energy or research into matters connected therewith;

(c) any contract entered into by him or any licence granted by or to him relating to prospecting or mining of minerals so specified or the production or use of atomic energy or research into matters connected therewith;

(d) any other information in his possession relating to any work carried out by him or on his behalf or under his directions, in connection with prospecting or mining of materials so specified or the production or use of atomic energy or research into matters connected therewith.

8. (1) Any person authorised by the Central Government may, on producing, if so required, a duly authenticated document showing his authority, enter any mine, premises or land—  
Power of entry and inspection.

(a) where he has reason to believe that work is being carried out for the purpose of or in connection with production and processing of any prescribed substances or substances from which a prescribed substance can be obtained or produced, development or use of atomic energy or research into matters connected therewith, or

(b) where any such plant as is mentioned in clause (b) of section 7 is situate,

and may inspect the mine, premises or land and any articles contained therein.

(2) The person carrying out the inspection may make copies of or extracts from any drawing, plan or other document found in the mine, premises or land and for the purpose of making such copies or extracts, may remove any such drawing, plan or other document after giving a duly signed receipt for the same and retain possession thereof for a period not exceeding seven days.

9. (1) The Central Government may, subject to the provisions of this section, do on, over or below the surface of any land such work as it considers necessary for the purpose of discovering whether there is present in or on the land, either in a natural state or in a deposit of waste material obtained from any underground or surface working, any substance from which in its opinion any of the prescribed substances can be obtained, and the extent to which such substance is so present.  
Power to do work for discovering.

(2) Before any powers are exercised under sub-section (1) in relation to any land, the Central Government shall serve on every owner, lessee and occupier of the land a notice in writing specifying the nature of the work proposed to be done and the extent of the land affected, and the time, not being less than twenty-eight days, within which and the manner in which objections can be made thereto, and

no such powers shall be exercised otherwise than in pursuance of the notice or before the expiration of the time specified therein for making objections.

(3) The Central Government may, after giving the person making the objection an opportunity of appearing before and being heard by a person appointed by the Central Government for the purpose, and after considering any such objection and the report of the person so appointed, make such orders as it may deem proper but not so as to increase the extent of the land affected.

(4) Compensation shall be determined and paid in accordance with section 21 in respect of any diminution in the value of any land or property situate thereon resulting from the exercise of powers under this section.

**Compulsory  
acquisition  
of right to  
work  
minerals.**

10. (1) Where it appears to the Central Government that any minerals from which in its opinion any of the prescribed substances can be obtained are present in or on any land, either in a natural state or in a deposit of waste material obtained from any underground or surface working, it may by order provide for compulsorily vesting in the Central Government the exclusive right, so long as the order remains in force to work those minerals and any other minerals which it appears to the Central Government to be necessary to work with those minerals, and may also provide, by that order or a subsequent order, for compulsorily vesting in the Central Government any other ancillary rights which appear to the Central Government to be necessary for the purpose of working the minerals aforesaid including (without prejudice to the generality of the foregoing provisions)—

- (a) rights to withdraw support;
- (b) rights necessary for the purpose of access to or conveyance of the minerals aforesaid or the ventilation or drainage of the working;
- (c) rights to use and occupy the surface of any land for the purpose of erecting any necessary buildings and installing any necessary plant in connection with the working of the minerals aforesaid;
- (d) rights to use and occupy for the purpose of working the minerals aforesaid any land forming part of or used in connection with an existing mine or quarry, and to use or acquire any plant used in connection with any such mine or quarry; and
- (e) rights to obtain a supply of water for any of the purposes connected with the working of the minerals aforesaid, or

to dispose of water or other liquid matter obtained in consequence of working such minerals.

(2) Notice of any order proposed to be made under this section shall be served by the Central Government—

(a) on all persons who, but for the order, would be entitled to work the minerals affected; and

(b) on every owner, lessee and occupier (except tenants for a month or for less than a month) of any land in respect of which rights are proposed to be acquired under the order.

(3) Compensation in respect of any right acquired under this section shall be paid in accordance with section 21, but in calculating the compensation payable, no account shall be taken of the value of any minerals present in or on land affected by the order, being minerals specified in the order as those from which in the opinion of the Central Government uranium or any concentrate or derivative of uranium can be obtained.

11. (1) Save as otherwise provided in any other provision of this Act, the Central Government may compulsorily acquire in accordance with the provisions of this section—

Compulsory  
acquisition  
of prescribed  
substances,  
minerals  
and plants.

(a) any prescribed substance;

(b) any minerals from which in the opinion of the Central Government any of the prescribed substances can be obtained;

(c) any prescribed equipment;

(d) any plant which is designed or adapted for the mining or processing of any minerals referred to in clause (b) or substances obtained therefrom or for the production or use of any prescribed substance or a radioactive substance or for the production, use or disposal of such articles as are or are likely to be required for or in connection with the production, use or disposal of atomic energy or for research into matters connected therewith.

(2) Where the Central Government acquires any plant referred to in clause (d) of sub-section (1), it shall also have the right to acquire any buildings, railway sidings, tramway lines, or aerial ropeways serving such plant.

(3) Where the Central Government proposes to acquire any property under sub-section (1), it shall serve upon the person appearing to be the owner thereof, a notice in writing specifying the property

to be acquired and requiring that person to make to the Central Government within the time specified in the notice a written declaration containing such particulars as may be so specified regarding the ownership of such property and any agreement or charge by virtue of which any other person has an interest in such property.

(4) Upon the service of a notice under sub-section (3), no property to which the notice relates shall be disposed of without the previous permission in writing of the Central Government.

(5) If it appears to the Central Government in consequence of any written declaration made to it in pursuance of sub-section (3) that any person other than the person on whom the notice under sub-section (3) was served is the owner of, or has any interest in, the property to which the notice relates, the Central Government shall serve a copy of the notice on that other person.

(6) A notice served under sub-section (3) shall contain a statement to the effect that an objection may be made thereto within such time and in such manner as may be specified, and if any such objection is duly made and not withdrawn, the Central Government shall afford an opportunity to the person making the objection of appearing before and being heard by a person appointed by the Central Government for the purpose.

(7) After considering any such objection, and the report of the person appointed by it under sub-section (6), the Central Government may serve on the persons upon whom the notice under sub-section (3) or a copy thereof was served a further notice in writing either withdrawing the notice of acquisition or confirming the said notice as respects the property to which it relates or such part of the property as may be specified.

(8) Any property with respect to which a notice of acquisition is served under this section shall—

(a) if no objection is duly made to the notice, vest in the Central Government at the expiration of the time for making such objection;

(b) if such an objection is duly made and the notice is confirmed as respects the whole or any part of that property by a notice served under sub-section (7), vest accordingly in the Central Government on the service of the last mentioned notice; and shall in either case vest free from all encumbrances.

(9) Compensation in respect of acquisition under this section shall be paid in accordance with section 21.

12. Where the Central Government acquires, in accordance with any law, any mine or part of a mine from which in the opinion of the Central Government any of the prescribed substances can be obtained, compensation in respect of such acquisition shall be paid in accordance with section 21:

Provided that in determining the amount of such compensation, no account shall be taken of the value of uranium which may be obtained from such mine or part of a mine.

13. (1) The Central Government may serve on the parties to a contract relating to prospecting or mining of any substance from which any of the prescribed substances can be obtained or to production or use of atomic energy or to research into matters connected therewith, not being a contract for the rendering of personal services, a notice in writing stating that on such date as may be specified in the notice the rights and liabilities of any of the parties to the contract specified in the notice (hereinafter referred to as the specified party) will be transferred to the Central Government, and thereupon subject to any withdrawal of the notice under the following provisions of this section, the contract shall, as regards any rights exercisable, or liabilities incurred, on or after the said date, have effect as if the Central Government were a party to the contract instead of the specified party and as if for any reference in the contract to the specified party there were substituted a reference to the Central Government.

(2) A notice served under sub-section (1) shall contain a statement to the effect that an objection may be made thereto within such time and in such manner as may be specified, and if any such objection is duly made and not withdrawn, the Central Government shall afford an opportunity to the person making the objection of appearing before and being heard by a person appointed by the Central Government for the purpose.

(3) After considering any such objection and the report of the person appointed by it under sub-section (2), the Central Government may make such order as it may deem proper.

(4) Where the rights and liabilities of a party to a contract are transferred to the Central Government under this section, there shall be paid to that party such compensation in respect of any loss suffered by that party as may be agreed between him and the Central Government, and in default of such agreement, as may be determined by arbitration.

14. (1) The Central Government may, subject to such rules as may be made in this behalf, by order prohibit except under a licence granted by it—

Control over  
production  
and use of  
atomic  
energy.

(i) the working of any mine or minerals specified in the order, being a mine or minerals from which in the opinion of the Central Government any of the prescribed substances can be obtained;

(ii) the acquisition, production, possession, use, disposal, export or import—

(a) of any of the prescribed substances; or

(b) of any minerals or other substances specified in the rules, from which in the opinion of the Central Government any of the prescribed substances can be obtained; or

(c) of any plant designed or adopted or manufactured for the production, development and use of atomic energy or for research into matters connected therewith; or

(d) of any prescribed equipment.

(2) Nothing in this section shall affect the authority of the Central Government to refuse a licence for the purpose of this section or to include in a licence such conditions as the Central Government thinks fit or to revoke a licence and the Central Government may take any action as aforesaid.

(3) Without prejudice to the generality of the foregoing provisions, the rules referred to in this section may provide for—

(a) the extent to which information in the possession of, or which has been made available to, the person granted a licence for purposes of this section, should be regarded as restricted information;

(b) the extent to which the area or premises under the control of the person to whom a licence has been granted for purposes of this section, should be regarded as a prohibited area;

(c) the conditions and criteria for location of any installation or operation of any plant in respect of which a licence has been granted or is intended to be granted for the purposes of this section including those necessary for protection against radiation and safe disposal of harmful by-products or wastes;

(d) the extent of the licensee's liability in respect of any hurt to any person or any damage to property caused by ionising radiations or any radioactive contamination either at the plant under licence or in the surrounding area;

(e) provision by licensee either by insurance or by such other means as the Central Government may approve, of sufficient funds to be available at all times to ensure settlement of any

claims in connection with the use of the site or the plant under licence which have been or may be duly established against the licensee in respect of any hurt to any person or any damage to any property caused by ionising radiations emitted at the plant under licence or radioactive contamination either at the plant under licence or in surrounding areas;

(f) obligatory qualifications, security clearances, hours of employment, minimum leave and periodical medical examination of the persons employed and any other requirement or restriction or prohibition on the employer, employed persons and other persons; and

(g) such other incidental and supplementary provisions including provisions for inspection and also for the sealing of premises and seizure, retention and disposal of any article in respect of which there are reasonable grounds for suspecting that a contravention of the rules has been committed, as the Central Government considers necessary.

(4) The Central Government may also prescribe the fees payable for issue of licences under sub-section (1).

**15. (1)** The Central Government shall have the right to require that any substance which, in the opinion of the Central Government, contains uranium, plutonium or any of their isotopes, shall be delivered to it and the Central Government may extract from that substance the uranium, plutonium or any of their isotopes contained therein and return the substance to the person concerned on payment of compensation which shall be determined in accordance with section 21:

Provided that such compensation shall not, in any case, exceed the cost incurred by the person in the production, mining or irradiation of the substance and in determining the same no account shall be taken of the value of the uranium, plutonium or any of their isotopes extracted from the substance.

(2) Nothing in this section shall prevent the Central Government from permitting, subject to such conditions as it may deem fit to impose, the use of small quantities of natural uranium for the purpose of examination, test or analysis.

**16.** The Central Government may prohibit the manufacture, possession, use, transfer by sale or otherwise, export and import and in an emergency, transport and disposal, of any radioactive substances without its written consent.

Special provisions as to safety.

17. (1) The Central Government may, as regards any class or description of premises or places, being premises or places, in which radioactive substances are manufactured, produced, mined, treated, stored or used or any radiation generating plant, equipment or appliance is used, make such provision by rules as appear to the Central Government to be necessary—

(a) to prevent injury being caused to the health of persons employed at such premises or places or other persons either by radiations, or by the ingestion of any radioactive substance;

(b) to secure that any radioactive waste products resulting from such manufacture, production, mining, treatment, storage, or use as aforesaid are disposed of safely;

(c) to prescribe qualifications of the persons for employment at such premises or places and the regulation of their hours of employment, minimum leave and periodical medical examination;

and the rules may, in particular and without prejudice to the generality of this sub-section, provide for imposing requirements as to the erection or structural alterations of buildings or the carrying out of works.

(2) The Central Government may, as respects the transport of any radioactive substance or any prescribed substance specified by an order issued under this Act as being dangerous to health, make such rules as appear to be necessary to prevent injury being caused by such transport to the health of persons engaged therein and other persons.

(3) Rules made under this section may provide for imposing requirements, prohibitions and restrictions on employers, employed persons and other persons.

(4) Any person authorised by the Central Government under this section, may, on producing, if so required, a duly authenticated document showing his authority, enter at all reasonable hours any premises, or any vehicle, vessel or aircraft for the purpose of ascertaining whether there has been committed, or is being committed, in or in connection with the premises, vehicle, vessel or aircraft, any contravention of the rules made under this section.

(5) In the event of any contravention of the rules made under this section, the Central Government shall have the right to take such measures as it may deem necessary to prevent further injury to persons or damage to property arising from radiation or contamination by radioactive substances including, without prejudice to

the generality of the foregoing provisions, and to the right to take further action for the enforcement of penalties under section 24, the sealing of premises, vehicle, vessel, or aircraft, and the seizure of radioactive substances and contaminated equipment.

18. (1) The Central Government may by order restrict the disclosure of information, whether contained in a document, drawing, photograph, plan, model, or in any other form whatsoever, which relates to, represents or illustrates—

- (a) an existing or proposed plant used or proposed to be used for the purpose of producing, developing or using atomic energy, or
- (b) the purpose or method of operation of any such existing or proposed plant, or
- (c) any process operated or proposed to be operated in any such existing or proposed plant.

(2) No person shall—

- (a) disclose, or obtain or attempt to obtain any information restricted under sub-section (1), or
- (b) disclose, without the authority of the Central Government, any information obtained in the discharge of any functions under this Act or in the performance of his official duties.

(3) Nothing in this section shall apply—

(i) to the disclosure of information with respect to any plant of a type in use for purposes other than the production, development or use of atomic energy, unless the information discloses that plant of that type is used or proposed to be used for the production, development or use of atomic energy or research into any matters connected therewith; or

(ii) where any information has been made available to the general public otherwise than in contravention of this section, to any subsequent disclosure of that information.

19. The Central Government may by order prohibit—

- (a) entry of any person, without obtaining permission, into a prohibited area, and
- (b) taking by any persons, without permission, of any photograph, sketch, pictures, drawing, map or other document from a prohibited area and any permission, if given to do these things, may be subject to stipulations which the Central Government may consider necessary.

Prevention  
of entry  
into pro-  
hibited  
areas.

Special  
Provisions  
as to inventions.

20. (1) As from the commencement of this Act, no patents shall be granted for inventions which in the opinion of the Central Government are useful for or relate to the production, control, use or disposal of atomic energy or the prospecting, mining, extraction, production, physical and chemical treatment, fabrication, enrichment, canning or use of any prescribed substance or radioactive substance or the ensuring of safety in atomic energy operations.

(2) The prohibition under sub-section (1) shall also apply to any invention of the nature specified in that sub-section in respect of which an application for the grant of a patent has been made to the Controller of Patents and Designs appointed under the Indian Patents and Designs Act, 1911, before the commencement of this Act and is <sup>2 of 1911.</sup> pending with him at such commencement.

(3) The Central Government shall have the power to inspect at any time any pending patent application and specification before its acceptance and if it considers that the invention relates to atomic energy, to issue directions to the Controller of Patents and Designs to refuse the application on that ground.

(4) Any person, who has made an invention which he has reason to believe relates to atomic energy, shall communicate to the Central Government the nature and description of the invention.

(5) Any person desiring to apply for a patent abroad for an invention relating to or which he has reason to believe relates to atomic energy shall obtain prior permission from the Central Government before making the application abroad or communicating the invention to any person abroad, unless three months have elapsed since his request for permission was made to the Central Government and no reply was received by him.

(6) The Controller of Patents and Designs shall have the power to refer any application to the Central Government for direction as to whether the invention is one relating to atomic energy and the direction given by the Central Government shall be final.

(7) Any invention in the field of atomic energy conceived whether in establishments controlled by the Central Government or under any contract, sub-contract, arrangement or other relationship with the Central Government shall be deemed to have been made or conceived by the Central Government, irrespective of whether such contract, sub-contract, arrangement or other relationship involves financial participation of or assistance from the Central Government.

(8) Notwithstanding anything contained in the Indian Patents and Designs Act, 1911, the decision of the Central Government on <sup>2 of 1911.</sup> points connected with or arising out of this section shall be final.

21. (1) Save as otherwise provided in this Act, where by reason of exercise of any powers under this Act, any compensation is payable, the amount of such compensation shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say—

(a) where the amount of compensation is fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement is reached, the Central Government shall appoint as arbitrator a person having expert knowledge as to the nature of the right affected who shall determine the amount of compensation payable.

(2) In making his award, the arbitrator appointed under sub-section (1) shall have regard—

(a) in the case of any compensation payable under section 9—

(i) to the nature of the work done;

(ii) the manner, extent and duration of the exercise of any powers under that section;

(iii) the diminution in the rent of the land and of the property situated thereon, which might reasonably be expected over any period or diminution in the market value of the land and property on the date when the exercise of powers comes to an end; and,

1 of 1894.

(iv) the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894, in so far as such provisions can be made applicable to the exercise of powers under section 9; and

(b) in the case of any compensation payable under section 11 or under section 12, to the price which the owner might reasonably have been expected to obtain on a sale of the property effected by him immediately before the date of the acquisition.

(3) An appeal shall lie to the High Court against an award of the arbitrator except in cases where the amount claimed thereof does not exceed an amount prescribed in this behalf by the Central Government.

(4) The Central Government may make rules prescribing the procedure to be followed in arbitrations under this Act and the principles to be followed in the apportionment of the cost of proceedings before the arbitrator and on appeal.

(5) Save as provided in this Act, nothing in any law for the time being in force relating to arbitration shall apply to arbitrations under this Act.

Special provision as to electricity.

22. (1) Notwithstanding anything contained in the Electricity (Supply) Act, 1948, the Central Government shall have authority—<sup>54 of 1948</sup>

(a) to develop a sound and adequate national policy in regard to atomic power, to co-ordinate such policy with the Central Electricity Authority and the State Electricity Boards constituted under sections 3 and 5 respectively of that Act and other similar statutory corporations concerned with the control and utilisation of other power resources, to implement schemes for the generation of electricity in pursuance of such policy and to operate atomic power stations in the manner determined by it in consultation with the Boards or Corporations concerned, with whom it shall enter into agreement regarding the supply of electricity so produced;

(b) to fix rates for and regulate the supply of electricity from atomic power stations with the concurrence of the Central Electricity Authority;

(c) to enter into arrangements with the Electricity Board of the State in which an atomic power station is situated, for the transmission of electricity to any other State:

Provided that in case there is difference of opinion between the Central Government and any State Electricity Board in regard to the construction of necessary transmission lines, the matter shall be referred to the Central Electricity Authority whose decision shall be binding on the parties concerned.

(2) No provision of the Indian Electricity Act, 1910, or any rule<sup>9 of 1910</sup> made thereunder or of any instrument having effect by virtue of such law or rule shall have any effect so far as it is inconsistent with any of the provisions of this Act.

(3) Save as otherwise provided in this Act, the provisions of this Act shall be in addition to, and not in derogation of, the Indian Electricity Act, 1910, and the Electricity (Supply) Act, 1948.<sup>9 of 1910,  
54 of 1948</sup>

Administration of Factories Act, 1948.

23. Notwithstanding anything contained in the Factories Act, 1948,<sup>65 of 1948</sup> the authority to administer the said Act and to do all things for the enforcement of its provisions, including the appointment of inspecting staff and the making of rules thereunder, shall vest in the Central

Government in relation to any factory owned by the Central Government and engaged in carrying out the purposes of this Act.

**24. (1) Whoever—**

Offences and  
penalties.

- (a) contravenes any order made under section 14 or any condition subject to which a licence is granted under that section; or
  - (b) contravenes any rule made under section 17 or any requirement, prohibition or restriction imposed under any such rule; or
  - (c) obstructs any person authorised by the Central Government under sub-section (4) of section 17 in the exercise of powers under that sub-section; or
  - (d) contravenes sub-section (2) of section 18;
- shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

**(2) Whoever—**

- (a) fails to comply with any notice served on him under section 5 or with any terms and conditions that may be imposed on him under that section; or
  - (b) fails to comply with any notice served on him under section 7 or knowingly makes any untrue statement in any return or statement made in pursuance of any such notice; or
  - (c) obstructs any person or authority in the exercise of powers under section 8 or 9; or
  - (d) contravenes any other provision of this Act or any order made thereunder;
- shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

**25. (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 any offence under this Act has been committed by a company**

and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall 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 and other association of individuals; and

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

Cognizance  
of offences.

26. (1) All offences under this Act shall be cognizable under the Code of Criminal Procedure, 1898, but no action shall be taken <sup>5</sup> of 1898 in respect of any person for any offence under this Act except on the basis of a written complaint made—

(a) in respect of contravention of section 8, 14, or 17 or any rule or order made thereunder, by the person authorised to exercise powers of entry and inspection;

(b) in respect of any other contravention, by a person duly authorised to make such complaints by the Central Government.

(2) Proceedings in respect of contravention of section 18 shall not be instituted except with the consent of the Attorney General of India.

Delegation  
of powers.

27. The Central Government may, by order, direct that any power conferred or any duty imposed on it by this Act shall, in such circumstances and subject to such conditions as may be specified in the direction, be exercised or discharged 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 as may be specified in the direction.

Effect of  
other laws.

28. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any other instrument having effect by virtue of any enactment other than this Act.

Protection  
of action  
taken in  
good faith.

29. No suit, prosecution or other legal proceeding shall lie against the Government or any person or authority in respect of anything done by it or him in good faith in pursuance of this Act or of any rule or order made thereunder.

30. (1) The Central Government may, by notification, make Power to rules for carrying out the purposes of this Act. make rules.

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

(a) declaring any information not so far published or otherwise made public as restricted information and prescribing the measures to be taken to guard against unauthorised dissemination or use thereof;

(b) declaring any area or premises as prohibited area and prescribing the measures to be taken to provide against unauthorised entry into or departure from such prohibited area;

(c) reporting of information relating to the discovery of uranium, thorium and other prescribed substances and for payment of rewards for such discoveries;

(d) control over mining or concentration of substances containing uranium;

(e) regulating by licensing and encouraging by award of concessions including rewards, floor prices and guarantees, mining of and prospecting for other prescribed substances;

(f) compulsory acquisition of prescribed substances, minerals and plants;

(g) regulating the production, import, export, transfer, refining, possession, ownership, sale, use or disposal of the prescribed substances and any other articles that in the opinion of the Central Government may be used for, or may result as a consequence of, the production, use or application of atomic energy;

(h) regulating the use of prescribed equipment;

(i) regulating the manufacture, custody, transport, transfer, sale, export, import, use or disposal of any radioactive substance;

(j) regulating the transport of such prescribed substances as are declared dangerous to health under sub-section (2) of section 17;

(k) developing, controlling, supervising and licensing the production, application and use of atomic energy;

(l) fees for issue of licences under this Act;

(m) the manner of serving notices under this Act;

(n) generally promoting co-operation among person, institutions and countries in the production, use, application of atomic energy and in research and investigations in that field.

(3) Rules made under this Act may provide that a contravention of the rules shall, save as otherwise expressly provided in this Act, be punishable with fine which may extend to five hundred rupees.

(4) 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.

Act binding  
on Govern-  
ment.

31. The provisions of this Act shall be binding on Government.

Repeal of  
Act 29 of  
1948.

32. The Atomic Energy Act, 1948, is hereby repealed.

# THE EXTRADITION ACT, 1962

## ARRANGEMENT OF SECTIONS

### CHAPTER I

#### PRELIMINARY

##### SECTIONS

1. Short title, extent and commencement.
2. Definitions.
3. Application of Act.

### CHAPTER II

EXTRADITION OF FUGITIVE CRIMINALS TO FOREIGN STATES AND TO  
COMMONWEALTH COUNTRIES TO WHICH CHAPTER III DOES  
NOT APPLY

4. Requisition for surrender.
5. Order for magisterial inquiry.
6. Issue of warrant for arrest.
7. Procedure before magistrate.
8. Surrender of fugitive criminal.
9. Power of magistrate to issue warrant of arrest in certain cases.
10. Receipt in evidence of exhibits, depositions and other documents and authentication thereof.
11. Chapter not to apply to commonwealth countries to which Chapter III applies.

### CHAPTER III

RETURN OF FUGITIVE CRIMINALS TO COMMONWEALTH  
COUNTRIES WITH EXTRADITION ARRANGEMENTS

12. Application of Chapter.
13. Liability of fugitive criminals from commonwealth countries to be apprehended and returned.
14. Endorsed and provisional warrants.

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15. Endorsed warrant for apprehension of fugitive criminal.
16. Provisional warrant for apprehension of fugitive criminal.
17. Dealing with fugitive criminal when apprehended.
18. Return of fugitive criminal by warrant.

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## SURRENDER OR RETURN OF ACCUSED OR CONVICTED PERSONS FROM FOREIGN STATES OR COMMONWEALTH COUNTRIES

19. Mode of requisition or form of warrant for the surrender or return to India of accused or convicted person who is in a foreign State or commonwealth country.
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## CHAPTER V

## MISCELLANEOUS

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23. Jurisdiction as to offences committed at sea or in air.
24. Discharge of person apprehended if not surrendered or returned within two months.
25. Release of persons arrested on bail.
26. Abetment of extradition offences.
27. Lawfulness of, and retaking on escape from, custody under warrants.
28. Property found on fugitive criminal.
29. Power of Central Government to discharge any fugitive criminal.
30. Simultaneous requisitions.
31. Restrictions on surrender.
32. Sections 29 and 31 to apply without any modification thereof.
33. Act not to affect the Foreigners Act, 1946.
34. Application of Act to Republic of Ireland.

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SECTIONS

35. Notified orders and notifications to be laid before Parliament.
36. Power to make rules.
37. Repeals and savings.

THE FIRST SCHEDULE

THE SECOND SCHEDULE

# THE EXTRADITION ACT, 1962

No. 34 OF 1962

[15th September, 1962]

An Act to consolidate and amend the law relating to the extradition of fugitive criminals.

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

## CHAPTER I

### PRELIMINARY

Short title,  
extent and  
commencement.

1. (1) This Act may be called the Extradition Act, 1962.

(2) It extends to the whole of India.

(3) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(a) "commonwealth country" means a commonwealth country specified in the First Schedule and such other commonwealth country as may be added to that Schedule by the Central Government by notification in the Official Gazette and includes every constituent part, colony or dependency of any commonwealth country so specified or added;

(b) "conviction" and "convicted" do not include or refer to a conviction which under foreign law is a conviction for contumacy, but the term "person accused" includes a person so convicted for contumacy;

<sup>1</sup> 5th January, 1963, vide Notification No. G.S.R. 55, dated 5-1-1963, Gazette of India, Extraordinary, Pt. II, Sec. 3 (i), p. 7.

(c) "extradition offence" means—

(i) in relation to a foreign State, being a treaty State, an offence provided for in the extradition treaty with that State;

(ii) in relation to a foreign State other than a treaty State or in relation to a commonwealth country an offence which is specified in, or which may be specified by notification under, the Second Schedule;

(d) "extradition treaty" means a treaty or agreement made by India with a foreign State relating to the extradition of fugitive criminals, and includes any treaty or agreement relating to the extradition of fugitive criminals made before the 15th day of August, 1947, which extends to, and is binding on, India;

(e) "foreign State" means any State outside India other than a commonwealth country, and includes every constituent part, colony or dependency of such State;

(f) "fugitive criminal" means an individual who is accused or convicted of an extradition offence committed within the jurisdiction of a foreign State or a commonwealth country and is, or is suspected to be, in some part of India;

(g) "magistrate" means a magistrate of the first class or a presidency magistrate;

(h) "notified order" means an order notified in the Official Gazette;

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

(j) "treaty State" means a foreign State with which an extradition treaty is in operation.

3. (1) The Central Government may, by notified order, direct application that the provisions of this Act other than Chapter III shall apply—<sup>of Act.</sup>

(a) to such foreign State or part thereof; or

(b) to such commonwealth country or part thereof to which Chapter III does not apply;

as may be specified in the order.

(2) The Central Government may, by the same notified order as is referred to in sub-section (1) or any subsequent notified order, restrict such application to fugitive criminals found, or suspected to be, in such part of India as may be specified in the order.

(3) Where the notified order relates to a treaty State,—

(a) it shall set out in full the extradition treaty with that State;

(b) it shall not remain in force for any period longer than that treaty; and

(c) the Central Government may, by the same or any subsequent notified order, render the application of this Act subject to such modifications, exceptions, conditions and qualifications as may be deemed expedient for implementing the treaty with that State.

## CHAPTER II

### EXTRADITION OF FUGITIVE CRIMINALS TO FOREIGN STATES AND TO COMMONWEALTH COUNTRIES TO WHICH CHAPTER III DOES NOT APPLY

Requisition  
for  
surrender.

4. A requisition for the surrender of a fugitive criminal of a foreign State or a commonwealth country may be made to the Central Government—

(a) by a diplomatic representative of the foreign State or commonwealth country at Delhi; or

(b) by the Government of that foreign State or commonwealth country communicating with the Central Government through its diplomatic representative in that State or country;

and if neither of these modes is convenient, the requisition shall be made in such other mode as is settled by arrangement made by the Government of the foreign State or commonwealth country with the Government of India.

Order for  
magisterial  
inquiry.

5. Where such requisition is made, the Central Government may, if it thinks fit, issue an order to any magistrate who would have had jurisdiction to inquire into the offence if it had been an offence committed within the local limits of his jurisdiction, directing him to inquire into the case.

6. On receipt of an order of the Central Government under section 5, the magistrate shall issue a warrant for the arrest of the fugitive criminal.

7. (1) When the fugitive criminal appears or is brought before the magistrate, the magistrate shall inquire into the case in the same manner and shall have the same jurisdiction and powers, as nearly as may be, as if the case were one triable by a court of session or High Court.

(2) Without prejudice to the generality of the foregoing provisions, the magistrate shall, in particular, take such evidence as may be produced in support of the requisition of the foreign State or commonwealth country and on behalf of the fugitive criminal, including any evidence to show that the offence of which the fugitive criminal is accused or has been convicted is an offence of political character or is not an extradition offence.

(3) If the magistrate is of opinion that a *prima facie* case is not made out in support of the requisition of the foreign State or commonwealth country, he shall discharge the fugitive criminal.

(4) If the magistrate is of opinion that a *prima facie* case is made out in support of the requisition of the foreign State or commonwealth country, he may commit the fugitive criminal to prison to await the orders of the Central Government, and shall report the result of his inquiry to the Central Government; and shall forward together with such report, any written statement which the fugitive criminal may desire to submit for the consideration of the Central Government.

8. If, upon receipt of the report and statement under sub-section (4) of section 7, the Central Government is of opinion that the fugitive criminal ought to be surrendered to the foreign State or commonwealth country, it may issue a warrant for the custody and removal of the fugitive criminal and for his delivery at a place and to a person to be named in the warrant.

9. (1) Where it appears to any magistrate that a person within the local limits of his jurisdiction is a fugitive criminal of a foreign State or commonwealth country, he may, if he thinks fit, issue a warrant for the arrest of that person on such information and on such evidence as would, in his opinion, justify the issue of a warrant if the offence of which the person is accused or has been convicted had been committed within the local limits of his jurisdiction.

Surrender  
of fugitive  
criminal.

Power of  
magistrate  
to issue  
warrant of  
arrest in  
certain  
cases.

(2) The magistrate shall forthwith report the issue of a warrant under sub-section (1) to the Central Government and shall forward the information, and the evidence or certified copies thereof to that Government.

(3) A person arrested on a warrant issued under sub-section (1) shall not be detained for more than three months unless within that period the magistrate receives from the Central Government an order made with reference to such person under section 5.

**Receipt in  
evidence  
of exhibits,  
depositions  
and other  
documents  
and authen-  
tication  
thereof.**

10. (1) In any proceedings against a fugitive criminal of a foreign State or commonwealth country under this Chapter, exhibits and depositions (whether received or taken in the presence of the person against whom they are used or not) and copies thereof and official certificates of facts and judicial documents stating facts may, if duly authenticated, be received as evidence.

(2) Warrants, depositions or statements on oath, which purport to have been issued or taken by any court of justice outside India or copies thereof, certificates of, or judicial documents stating the facts of, conviction before any such court shall be deemed to be duly authenticated if—

(a) the warrant purports to be signed by a judge, magistrate or officer of the State or country where the same was issued or acting in or for such State or country;

(b) the depositions or statements or copies thereof purport to be certified, under the hand of a judge, magistrate or officer of the State or country where the same were taken, or acting in or for such State or country, to be the original depositions or statements or to be true copies thereof, as the case may require;

(c) the certificate of, or judicial document stating the fact of, a conviction purports to be certified by a judge, magistrate or officer of the State or country where the conviction took place or acting in or for such State;

(d) the warrants, depositions, statements, copies, certificates and judicial documents, as the case may be, are authenticated by the oath of some witness or by the official seal of a minister of the State or country where the same were respectively issued, taken or given.

11. Nothing contained in this Chapter shall apply to fugitive criminals of a commonwealth country to which Chapter III applies.

Chapter not to apply to commonwealth countries to which Chapter III applies.

### CHAPTER III

#### RETURN OF FUGITIVE CRIMINALS TO COMMONWEALTH COUNTRIES WITH EXTRADITION ARRANGEMENTS

12. (1) This Chapter shall apply only to any such commonwealth country to which, by reason of an extradition arrangement entered into with that country, it may seem expedient to the Central Government to apply the same.

(2) Every such application shall be by notified order, and the Central Government may, by the same or any subsequent notified order, direct that this Chapter and Chapters I, IV and V shall, in relation to any such commonwealth country, apply subject to such modifications, exceptions, conditions and qualifications as it may think fit to specify in the order for the purpose of implementing the arrangement.

13. Where a fugitive criminal of any commonwealth country to which this Chapter applies is found in India, he shall be liable to be apprehended and returned in the manner provided by this Chapter to that commonwealth country.

Liability of fugitive criminals from commonwealth countries to be apprehended and returned.

14. A fugitive criminal may be apprehended in India under an endorsed warrant or a provisional warrant.

Endorsed and provisional warrants.

15. Where a warrant for the apprehension of a fugitive criminal has been issued in any commonwealth country to which this Chapter applies and such fugitive criminal is, or is suspected to be, in India, the Central Government may, if satisfied that the warrant was issued by a person having lawful authority to issue the same, endorse such warrant in the manner prescribed, and the warrant so endorsed shall be sufficient authority to apprehend the person named in the warrant and to bring him before any magistrate in India.

Endorsed warrant for apprehension of fugitive criminal.

Provisional  
warrant for  
apprehen-  
sion of  
fugitive  
criminal.

16. (1) Any magistrate may issue a provisional warrant for the apprehension of a fugitive criminal from any commonwealth country to which this Chapter applies who is, or is suspected to be, in or on his way to India, on such information and under such circumstances as would, in his opinion, justify the issue of a warrant, if the offence of which the fugitive criminal is accused or has been convicted had been committed within his jurisdiction and such warrant may be executed accordingly.

(2) A magistrate issuing a provisional warrant shall forthwith send a report of the issue of the warrant together with the information or a certified copy thereof to the Central Government, and the Central Government may, if it thinks fit, discharge the person apprehended under such warrant.

(3) A fugitive criminal apprehended on a provisional warrant may, from time to time, be remanded for such reasonable time, not exceeding seven days at any one time, as under the circumstances seems requisite for the production of an endorsed warrant.

Dealing with  
fugitive cri-  
minal when  
apprehend-  
ed.

17. (1) If the magistrate, before whom a person apprehended under this Chapter is brought, is satisfied on inquiry that the endorsed warrant for the apprehension of the fugitive criminal is duly authenticated and that the offence of which the person is accused or has been convicted is an extradition offence, the magistrate shall commit the fugitive criminal to prison to await his return and shall forthwith send to the Central Government a certificate of the committal.

(2) If on such inquiry the magistrate is of opinion that the endorsed warrant is not duly authenticated or that the offence of which such person is accused or has been convicted is not an extradition offence, the magistrate may, pending the receipt of the orders of the Central Government, detain such person in custody or release him on bail.

(3) The magistrate shall report the result of his inquiry to the Central Government and shall forward together with such report any written statement which the fugitive criminal may desire to submit for the consideration of that Government.

Return of  
fugitive  
criminal by  
warrant.

18. The Central Government may, at any time after a fugitive criminal has been committed to prison under this Chapter, issue a warrant for the custody and removal to the commonwealth country concerned of the fugitive criminal and for his delivery at a place and to a person to be named in the warrant.

## CHAPTER IV

## SURRENDER OR RETURN OF ACCUSED OR CONVICTED PERSONS FROM FOREIGN STATES OR COMMONWEALTH COUNTRIES

19. (1) A requisition for the surrender of a person accused or convicted of an extradition offence committed in India and who is or is suspected to be, in any foreign State or a commonwealth country to which Chapter III does not apply, may be made by the Central Government—

(a) to a diplomatic representative of that State or country at Delhi; or

(b) to the Government of that State or country through the diplomatic representative of India in that State or country; and if neither of these modes is convenient, the requisition shall be made in such other mode as is settled by arrangement made by the Government of India with that State or country.

(2) A warrant issued by a magistrate in India for the apprehension of any person who is, or is suspected to be, in any commonwealth country to which Chapter III applies shall be in such form as may be prescribed.

20. Any person accused or convicted of an extradition offence who is surrendered or returned by a foreign State or commonwealth country may, under the warrant of arrest for his surrender or return issued in such State or country, be brought into India and delivered to the proper authority to be dealt with according to law.

21. Whenever any person accused or convicted of an offence, which, if committed in India would be an extradition offence, is surrendered or returned by a foreign State or commonwealth country, that person shall not, until he has been restored or has had an opportunity of returning to that State or country, be tried in India for an offence committed prior to the surrender or return, other than the extradition offence proved by the facts on which the surrender or return is based.

## CHAPTER V

## MISCELLANEOUS

22. Every fugitive criminal of a foreign State or commonwealth country shall, subject to the provisions of this Act, be liable to be arrested and surrendered or returned, whether the offence in res-

Mode of requisition or form of warrant for the surrender or return to India of accused or convicted person who is in a foreign State or commonwealth country.

Conveyance of accused or convicted person surrendered or returned.

Accused or convicted person surrendered or returned by foreign State or commonwealth country not to be tried for previous offence.

Liability of fugitive criminals to be arrested.

ed and sur-  
rendered or  
returned.

Jurisdiction  
as to  
offences  
committed  
at sea or  
in air.

Discharge  
of person  
apprehended  
if not  
surrendered  
or  
returned  
within two  
months.

Release of  
persons  
arrested on  
bail.

Abetment  
of extra-  
dition  
offences.

Lawfulness  
of, and  
re-taking  
on escape  
from cus-  
tody under  
warrants.

Property  
found on  
fugitive  
criminal.

pect of which the surrender or return is sought was committed before or after the commencement of this Act, and whether or not a court in India has jurisdiction to try that offence.

23. Where the offence in respect of which the surrender or return of a fugitive criminal is sought was committed on board any vessel on the high seas or any aircraft while in the air outside India or the Indian territorial waters which comes into any port or aerodrome of India, the Central Government and any magistrate having jurisdiction in such port or aerodrome may exercise the powers conferred by this Act.

24. If a fugitive criminal who, in pursuance of this Act, has been committed to prison to await his surrender or return to any foreign State or commonwealth country is not conveyed out of India within two months after such committal, the High Court, upon application made to it by or on behalf of the fugitive criminal and upon proof that reasonable notice of the intention to make such application has been given to the Central Government, may order such prisoner to be discharged unless sufficient cause is shown to the contrary.

25. In the case of a person who is a fugitive criminal arrested or detained under this Act, the provisions of the Code of Criminal Procedure, 1898, relating to bail shall apply in the same manner as they would apply if such person were accused of committing in India the offence of which he is accused or has been convicted, and in relation to such bail, the magistrate before whom the fugitive criminal is brought shall have, as far as may be, the same powers and jurisdiction as a court of session under that Code.

26. A fugitive criminal who is accused or convicted of abetting any extradition offence shall be deemed for the purposes of this Act to be accused or convicted of having committed such offence and shall be liable to be arrested and surrendered accordingly.

27. It shall be lawful for any person to whom a warrant is directed for the apprehension of a fugitive criminal to hold in custody and convey the person mentioned in the warrant to the place named in the warrant, and if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of India may be re-taken upon an escape.

28. Everything found in the possession of a fugitive criminal at the time of his arrest which may be material as evidence in proving the extradition offence may be delivered up with the fugitive criminal on his surrender or return, subject to the rights, if any, of third parties with respect thereto.

29. If it appears to the Central Government that by reason of the trivial nature of the case or by reason of the application for the surrender or return of a fugitive criminal not being made in good faith or in the interests of justice or for political reasons or otherwise, it is unjust or inexpedient to surrender or return the fugitive criminal, it may, by order, at any time stay any proceedings under this Act and direct any warrant issued or endorsed under this Act to be cancelled and the person for whose arrest the warrant has been issued or endorsed to be discharged.

30. If requisitions for the surrender of a fugitive criminal are received from more than one foreign State or commonwealth country or from any foreign State and any commonwealth country, the Central Government may, having regard to the circumstances of the case, surrender the fugitive criminal to such State or country as that Government thinks fit.

31. A fugitive criminal shall not be surrendered or returned to a foreign State or commonwealth country—

(a) if the offence in respect of which his surrender is sought is of a political character or if he proves to the satisfaction of the magistrate or court before whom he may be produced or of the Central Government that the requisition or warrant for his surrender has, in fact, been made with a view to try or punish him for an offence of a political character;

(b) if prosecution for the offence in respect of which his surrender is sought is according to the law of that State or country barred by time;

(c) unless provision is made by the law of the foreign State or commonwealth country or in the extradition treaty with the foreign State or extradition arrangement with the commonwealth country, that the fugitive criminal shall not, until he has been restored or has had an opportunity of returning to India, be detained or tried in that State or country for any offence committed prior to his surrender or return, other than the extradition offence proved by the facts on which his surrender or return is based;

(d) if he has been accused of some offence in India, not being the offence for which his surrender or return is sought or is undergoing sentence under any conviction in India until after he has been discharged, whether by acquittal or on expiration of his sentence or otherwise;

(e) until after the expiration of fifteen days from the date of his being committed to prison by the magistrate.

Sections 29  
and 31 to  
apply with-  
out any  
modification  
thereof.

Act not to  
affect the  
Foreigners  
Act, 1946.

Application  
of Act to  
Republic of  
Ireland.

Notified  
orders and  
notifications  
to be laid  
before  
Parliament.

Power to  
make rules.

32. Notwithstanding anything to the contrary contained in section 3 or section 12, the provisions of sections 29 and 31 shall apply without any modification to every foreign State or commonwealth country.

33. Nothing in this Act shall affect the provisions of the Foreigners Act, 1946, or any order made thereunder.

34. The provisions of this Act shall apply in relation to the Republic of Ireland in the like manner and subject to the like conditions as they apply in relation to a commonwealth country.

35. Every notified order made or notification issued under this Act shall, as soon as may be after it is made or issued, be laid before each House of Parliament.

36. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form in which a requisition for the surrender of a fugitive criminal may be made;

(b) the form in which a warrant for the apprehension of any person in a commonwealth country to which Chapter III applies may be made;

(c) the manner in which any warrant may be endorsed or authenticated under this Act;

(d) the removal of fugitive criminals accused or in custody under this Act and their control and maintenance until such time as they are handed over to the persons named in the warrant as entitled to receive them;

(e) the seizure and disposition of any property which is the subject of, or required for proof of, any alleged offence to which this Act applies;

(f) the form and manner in which or the channel through which a magistrate may be required to make his report to the Central Government under this Act;

(g) any other matter which has to be, or may be, prescribed.

(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 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.

**15 of 1903.**

37. (1) The Indian Extradition Act, 1903, and any law corresponding thereto in force at the commencement of this Act in the territories which, immediately before the 1st day of November, 1956, were comprised in Part B States and the North East Frontier Agency and Tuensang District (Extradition) Regulation, 1961, are hereby repealed.

Repeals and savings.

**3 of 1961.**

(2) The Extradition Acts, 1870 to 1932 and the Fugitive Offenders Act, 1881, in so far as they apply to and operate as part of the law of India, are hereby repealed.

33 and 34  
Vict. c. 52;  
36 and 37  
Vict. c. 60;  
6 Edw. 7, c.  
15; 22 and  
23 Geo. 5,  
c. 39;  
44 and 45  
Vict. c. 69.

#### THE FIRST SCHEDULE

[See section 2(a)]

The following are commonwealth countries:—

1. Commonwealth of Australia.
2. Canada.
3. Ceylon.
4. Cyprus.
5. Federation of Malaya.
6. Ghana.
7. New Zealand.
8. Nigeria.
9. Pakistan.
10. Sierra Leone.
11. Singapore.
12. Tanganyika.
13. United Kingdom.

## THE SECOND SCHEDULE

[See section 2(c) (ii)]

*Extradition offences in relation to foreign States other than treaty States or in relation to commonwealth countries*

The following list of extradition offences is to be construed according to the law in force in India on the date of the alleged offence. Wherever the names of the relevant Acts are not given, the sections referred to are the sections of the Indian Penal Code (45 of 1860):—

1. Culpable homicide (sections 299 to 304).
2. Attempt to murder (section 307).
3. Causing miscarriage and abandonment of Child (sections 312 to 317).
4. Kidnapping, abduction, slavery and forced labour (sections 360 to 374).
5. Rape and unnatural offences (sections 375 to 377).
6. Theft, extortion, robbery and dacoity (sections 378 to 402).
7. Criminal misappropriation and criminal breach of trust (sections 403 to 414).
8. Cheating (sections 415 to 420).
9. Mischief (sections 425 to 440).
10. Forgery, using forged documents and other offences relating to false documents (sections 463 to 477A).
11. Offences relating to coins and stamps (sections 230 to 263A).
12. Sinking or destroying a vessel at sea or attempting or conspiring to do so.
13. Damaging or destroying an aircraft in the air or attempting or conspiring to do so.
14. Assault on board a vessel on the high seas or an aircraft in the air outside India or the Indian territorial waters with intent to destroy life or to do grievous bodily harm.
15. Revolt or conspiracy to revolt by two or more persons on board a vessel on the high seas or an aircraft in the air outside India or the Indian territorial waters against the authority of the master or the pilot in command

16. Smuggling of gold, gold manufactures, diamonds and other precious stones or of any narcotic substance [section 167, entry 81 in column 2 of schedule, Sea Customs Act, 1878 (8 of 1878)].
17. Immoral traffic in women and girls [sections 4, 5, 6 and 8 of the Suppression of Immoral Traffic in Women and Girls Act, 1956 (104 of 1956)].
18. Any offence which if committed in India would be punishable under any other section of the Indian Penal Code or any other law, and which may, from time to time, be specified by the Central Government by notification in the Official Gazette either generally for all foreign States or for all commonwealth countries or specially for one or more such States or countries.

**THE RESERVE BANK OF INDIA (AMENDMENT)  
ACT 1962**

No. 35 OF 1962

[15th September, 1962]

An Act further to amend the Reserve Bank of India Act, 1934, and to make certain consequential amendments in the State Bank of India Act, 1955.

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 Reserve Bank of India (Amendment) Act, 1962.

Amend-  
ment of  
section 8.

2. To sub-section (2) of section 8 of the Reserve Bank of India Act, 1934 (hereinafter referred to as the principal Act), the following proviso shall be added, namely:—

“Provided that the Central Board may, if in its opinion it is necessary in the public interest so to do, permit the Governor or a Deputy Governor to undertake, at the request of the Central Government or any State Government, such part-time honorary work, whether related to the purposes of this Act or not, as is not likely to interfere with his duties as Governor or Deputy Governor, as the case may be.”

Amend-  
ment of  
section 17.

3. In section 17 of the principal Act,—

(a) in sub-clause (a) of clause (2), for the words “maturing within ninety days from the date of such purchase or re-discount, exclusive of days of grace;” the following words shall be substituted, namely:—

“maturing.—

(i) in the case of bills of exchange and promissory notes arising out of any such transaction relating to the export of goods from India, within one hundred and eighty days, and

(ii) in any other case, within ninety days, from the date of such purchase or re-discount, exclusive of days of grace;”;

(b) in clause (3), for sub-clause (b), the following sub-clause shall be substituted, namely:—

“(b) the purchase, sale and re-discount of bills of exchange (including treasury bills) drawn in or on any place in any country outside India which is a member of the International Monetary Fund and maturing,—

(i) in the case of bills of exchange arising out of any bona fide transaction relating to the export of goods from India, within one hundred and eighty days, and

(ii) in any other case, within ninety days, from the date of such purchase or re-discount:

Provided that no such purchase, sale or re-discount shall be made in India except with a scheduled bank or a State co-operative bank.”;

(c) after clause (3), the following clause shall be inserted, namely:—

“(3A) the making to any scheduled bank or State co-operative bank, of loans and advances, against promissory notes of such bank, repayable on demand or on the expiry of fixed periods not exceeding one hundred and eighty days:

Provided that the borrowing bank furnishes a declaration in writing to the effect that—

(i) it holds bills of exchange arising out of any transaction relating to the export of goods from India, of a value not less than the amount of such loans or advances,—

(a) drawn in India and on any place in any country outside India which is a member of the International Monetary Fund or in any other country notified in this behalf by the Bank in the Gazette of India, and

(b) maturing not later than one hundred and eighty days from the date of the loan or advance; and

(ii) it will, so long as any part of such loans and advances remains unpaid, continue to hold such bills of exchange of a value not less than the amount of such loans or advances outstanding for the time being;”;

(d) to clause (4), the following proviso shall be added, namely:—

“Provided that loans and advances made against the security of bills of exchange and promissory notes arising out of any transaction relating to the export of goods from India shall be repayable on demand or on the expiry of fixed periods not exceeding one hundred and eighty days.”.

Amend-  
ment of  
section  
42.

**4. In section 42 of the principal Act,—**

(a) in sub-section (1),—

(i) for the words “five per cent of the demand liabilities and two per cent. of the time liabilities”, the words “three per cent. of the total of the demand and time liabilities” shall be substituted;

(ii) for the proviso, the following proviso shall be substituted, namely:—

“Provided that the Bank may, by notification in the Gazette of India, increase the said rate to such higher rate as may be specified in the notification so however that the rate shall not be more than fifteen per cent. of the total of the demand and time liabilities.”;

(iii) in the *Explanation*, in clause (c), for the words and brackets “Refinance Corporation for Industry (Private) Limited”, the words “Refinance Corporation for Industry Limited” shall be substituted;

(b) in sub-section (1A),—

(i) for the words “rates specified in the notification, such additional balance being calculated with reference to the excess of the demand and time liabilities of the bank as shown in the return referred to in sub-section (2) over its demand and time liabilities”, the words “rate specified in the notification, such additional balance being calculated with reference to the excess of the total of the demand and time liabilities of the bank as shown in the return referred to in sub-section (2) over the total of its demand and time liabilities” shall be substituted;

(ii) the proviso shall be omitted;

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

“(1AA) Notwithstanding anything contained in sub-section (1) or sub-section (1A), it shall not be necessary for any scheduled bank to maintain with the Bank any balance which shall be more than fifteen per cent. of the total of its demand and time liabilities as shown in the return referred to in sub-section (2).”;

(d) in sub-section (1B), the following proviso shall be inserted at the end, namely:—

“Provided further that where the Bank does not, under sub-section (5), demand the payment of the penalty imposed by sub-section (3), it may pay interest at such rate or rates as may be determined by the Bank from time to time on the amount actually maintained with it by the scheduled bank, notwithstanding that such amount is less than the balance required to be maintained in pursuance of a notification issued under the proviso to sub-section (1) or under sub-section (1A).”;

(e) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) (a) The penalties imposed by sub-sections (3) and (4) shall be payable within a period of fourteen days from the date on which a notice issued by the Bank demanding the payment of the same is served on the scheduled bank, and in the event of a failure of the scheduled bank to pay the same within such period, may be levied by a direction of the principal civil court having jurisdiction in the area where an office of the defaulting bank is situated, such direction to be made only upon an application made in this behalf to the court by the Bank;

(b) when the court makes a direction under clause (a), it shall issue a certificate specifying the sum payable by the scheduled bank and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a suit;

Amend-  
ment of  
section  
43A.

Insertion  
of new  
Chapter  
IIIA.

Defini-  
tions.

(c) notwithstanding anything contained in this section, if the Bank is satisfied that the defaulting bank had sufficient cause for its failure to comply with the provisions of sub-section (1), (1A) or (2), it may not demand the payment of the penal interest or the penalty, as the case may be.”.

5. In section 43A of the principal Act, after the words and figures “or section 43”, wherever they occur, the words and figures and letter “or in pursuance of the provisions of Chapter IIIA” shall be inserted.

6. In the principal Act, after Chapter III, the following Chapter shall be inserted, namely:—

### “CHAPTER IIIA

#### COLLECTION AND FURNISHING OF CREDIT INFORMATION

45A. In this Chapter, unless the context otherwise requires, —

(a) “banking company” means a banking company as defined in section 5 of the Banking Companies Act, 1949, <sup>10 of 1949</sup> and includes the State Bank of India or any other banking or financial institution notified by the Central Government in this behalf;

(b) “borrower” means any person to whom any credit limit has been sanctioned by any banking company, whether availed of or not, and includes—

(i) in the case of a company or corporation, its subsidiaries;

(ii) in the case of a Hindu undivided family, any member thereof or any firm in which such member is a partner;

(iii) in the case of a firm, any partner thereof or any other firm in which such partner is a partner; and

(iv) in the case of an individual, any firm in which such individual is a partner;

(c) “credit information” means any information relating to—

(i) the amounts and the nature of loans or advances and other credit facilities granted by a banking company to any borrower or class of borrowers;

(ii) the nature of security taken from any borrower for credit facilities granted to him; and

(iii) the guarantee furnished by a banking company for any of its customers.

45B. The Bank may—

(a) collect, in such manner as it may think fit, credit information from banking companies; and

(b) furnish such information to any banking company in accordance with the provisions of section 45D.

Power of  
Bank to  
collect  
credit  
informa-  
tion.

45C. (1) For the purpose of enabling the Bank to discharge its functions under this Chapter, it may at any time direct any banking company to submit to it such statements relating to such credit information and in such form and within such time as may be specified by the Bank from time to time.

(2) A banking company shall, notwithstanding anything to the contrary contained in any law for the time being in force or in any instrument regulating the constitution thereof or in any agreement executed by it, relating to the secrecy of its dealings with its constituents, be bound to comply with any direction issued under sub-section (1).

45D. (1) A banking company may, in connection with any financial arrangement entered into or proposed to be entered into by it, with any person, make an application to the Bank in such form as the Bank may specify requesting it to furnish the applicant with such credit information as may be specified in the application.

Procedure  
for furnish-  
ing credit  
information  
to banking  
companies.

(2) On receipt of an application under sub-section (1), the Bank shall, as soon as may be, furnish the applicant with such credit information relating to the matters specified in the application, as may be in its possession:

Provided that the information so furnished shall not disclose the names of the banking companies which have submitted such information to the Bank.

(3) The Bank may in respect of each application levy such fees, not exceeding twenty-five rupees, as it may deem fit for furnishing credit information.

45E. (1) Any credit information contained in any statement submitted by a banking company under section 45C or furnished by the Bank to any banking company under section 45D, shall be treated as confidential and shall not, except for the purposes of this Chapter, be published or otherwise disclosed.

Disclosure  
of infor-  
mation  
prohib-  
ited.

(2) Nothing in this section shall apply to—

(a) the disclosure by any banking company, with the previous permission of the Bank, of any information furnished to the Bank under section 45C;

(b) the publication by the Bank, if it considers necessary in the public interest so to do, of any information collected by it under section 45C, in such consolidated form as it may think fit without disclosing the name of any banking company or its borrowers.

(3) Notwithstanding anything contained in any law for the time being in force, no court, tribunal or other authority shall compel the Bank or any banking company to produce or to give inspection of any statement submitted by that banking company under section 45C or to disclose any credit information furnished by the Bank to that banking company under section 45D.

Certain claims for compensation barred.

Penalties.

45F. No person shall have any right, whether in contract or otherwise, to any compensation for any loss incurred by reason of the operation of any of the provisions of this Chapter.

45G. (1) If any banking company—

(a) fails to submit any statement required under section 45C or submits under that section a statement which is false in any material particular; or

(b) fails to comply with any condition imposed under this Chapter;

every director or other officer of the company and every other person who is knowingly a party to the breach shall be punishable with fine which may extend to two thousand rupees.

(2) If any person discloses any credit information, the disclosure of which is prohibited under section 45E, he shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.”.

7. In the State Bank of India Act, 1955,—

Amend-  
ment of the  
State Bank  
of India  
Act, 1955.

23 of

(i) in section 33, in clause (xixb), after the words “classes of industries”, the words “or in such business or trade or classes of business or trade” shall be inserted;

(ii) in section 34, to sub-section (3), the following proviso shall be added, namely:—

“Provided that nothing in sub-clause (ii) of clause (b) shall apply where the State Bank holds by way of a collateral security any negotiable instrument or security which does not mature within six months from the date aforesaid in respect of any loan, advance or cash credit sanctioned under this Act.”

THE BANKING COMPANIES (AMENDMENT) ACT, 1962

No. 36 OF 1962

[16th September, 1962]

An Act further to amend the Banking Companies Act, 1949.

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 Banking Companies (Amendment) Act, 1962.

Amend-  
ment of  
section  
11.

2. In section 11 of the Banking Companies Act, 1949 (hereinafter referred to as the principal Act),—

(i) in sub-section (2), in clause (b), for the words beginning with “the banking company shall” and ending with “required by clause (a)”, the following shall be substituted, namely:—

“the banking company shall deposit and keep deposited with the Reserve Bank either in cash or in the form of unencumbered approved securities, or partly in cash and partly in the form of such securities—

(i) an amount which shall not be less than the minimum required by clause (a); and

(ii) as soon as may be after the expiration of each calendar year, an amount calculated at twenty per cent. of its profit for that year in respect of all business transacted through its branches in India, as disclosed in the profit and loss account prepared with reference to that year under section 29.”;

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Notwithstanding anything contained in sub-section (2), the Central Government may, on the recommendation of the Reserve Bank, and having regard to the adequacy of

the amounts already deposited and kept deposited by a banking company under sub-section (2), in relation to its deposit liabilities in India, declare by order in writing that the provisions of sub-clause (ii) of clause (b) of sub-section (2) shall not apply to such banking company for such period as may be specified in the order.”;

(iii) in sub-section (3), in clause (ii), the following proviso shall be inserted at the end, namely:—

“Provided further that in the case of every banking company to which this clause applies and which commences banking business for the first time after the commencement of the Banking Companies (Amendment) Act, 1962, the value of its paid-up capital shall not be less than five lakhs of rupees.”.

3. In section 17 of the principal Act,—

Amend-  
ment of  
section

(i) in sub-section (1), the words “unless the amount in such fund together with the amount in the share premium account is not less than its paid-up capital,” shall be omitted;

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

“(1A) Notwithstanding anything contained in sub-section (1), the Central Government may, on the recommendation of the Reserve Bank and having regard to the adequacy of the paid-up capital and reserves of a banking company in relation to its deposit liabilities, declare by order in writing that the provisions of sub-section (1) shall not apply to the banking company for such period as may be specified in the order:

Provided that no such order shall be made unless, at the time it is made, the amount in the reserve fund under sub-section (1), together with the amount in the share premium account is not less than the paid-up capital of the banking company.”.

4. In section 18 of the principal Act, for the words “two per cent. of its time liabilities in India and five per cent. of its demand liabilities in India,” the words “three per cent. of the total of its time and demand liabilities in India,” shall be substituted.

Amend-  
ment of  
section  
18

Amend-  
ment of  
section 22.

5. In section 22 of the principal Act, in sub-section (3), in clause (c), after the words "a company incorporated outside India that", the words "the carrying on of banking business by such company in India will be in the public interest and that" shall be inserted.

Amend-  
ment of  
section  
24.

6. In section 24 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) (a) Notwithstanding anything contained in sub-section (1) or in sub-section (2), after the expiry of two years from the commencement of the Banking Companies (Amendment) Act, 1962,—

(i) a scheduled bank, in addition to the average daily balance which it is, or may be, required to maintain under section 42 of the Reserve Bank of India Act, 1934, and

(ii) every other banking company, in addition to the cash reserve which it is required to maintain under section 18, shall maintain in India, in cash, gold or unencumbered approved securities, valued at a price not exceeding the current market price, an amount which shall not at the close of business on any day be less than 25 per cent. of the total of its demand and time liabilities in India;

(b) in computing the amount for the purposes of clause (a),—

(i) the deposit required under sub-section (2) of section 11 to be made with the Reserve Bank by a banking company incorporated outside India, and

(ii) any cash or balances maintained in India by a banking company other than a scheduled bank with itself or in current account with the Reserve Bank or the State Bank of India or with any other bank which may be notified in this behalf by the Central Government, in excess of the aggregate of the cash or balance or both required to be maintained under section 18, and

(iii) any balances maintained by a scheduled bank with the Reserve Bank in excess of the balance required to be maintained by it under section 42 of the Reserve Bank of India Act, 1934, and any balances maintained by a scheduled bank with the State Bank of India or with any other bank which may be notified in this behalf by the Central Government,

shall be deemed to be cash maintained in India."

7. In section 35B of the principal Act, in sub-section (2), for the figures and word "268, 269, 310, 311 and 388", the figures, words and brackets "268 and 269, the proviso to sub-section (3) of section 309, sections 310 and 311, the proviso to section 387, and section 388" shall be substituted.

8. In section 51 of the principal Act,—

(i) after the figures "35", the figures and letter "35A" shall be inserted; and

(ii) the figures and letter "37, 44B" shall be omitted.

Amend-  
ment of  
section  
51.

THE INDUSTRIES (DEVELOPMENT AND  
REGULATION) AMENDMENT ACT, 1962

No. 37 OF 1962.

[16th September, 1962]

An Act further to amend the Industries (Development and Regulation) Act, 1951.

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 Industries (Development and Regulation) Amendment Act, 1962.

**Amend-  
ment of  
First  
Schedule.** 2. In the First Schedule to the Industries (Development and Regulation) Act, 1951, in the heading "1. METALLURGICAL INDUSTRIES", 65 of 1951, under the sub-heading "B. Non-ferrous" for item (1), the following items shall be substituted, namely:—

"(1) Precious metals, including gold and silver, and their alloys;

(1A) Other non-ferrous metals and their alloys"

THE OIL AND NATURAL GAS COMMISSION  
(AMENDMENT) ACT, 1962

No. 38 OF 1962

[16th September, 1962]

An Act to amend the Oil and Natural Gas Commission Act,  
1959

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

- 43 of 1959. 1. This Act may be called the Oil and Natural Gas Commission <sup>Short title.</sup> (Amendment) Act, 1962.
- 1 of 1956. 2. In section 1 of the Oil and Natural Gas Commission Act, 1959 <sup>Amend-  
ment of  
section  
1.</sup> (hereinafter referred to as the principal Act), in sub-section (2), the words “, except the State of Jammu and Kashmir” shall be omitted.
3. In section 14 of the principal Act, in sub-section (2), after clause (g), the following clause shall be inserted, namely:—
- “(gg) to promote and form companies in compliance with the requirements of the Companies Act, 1956 for any of the purposes aforesaid;”.
4. In section 15 of the principal Act,—
- (a) in clause (a), for the words “rupees two thousand a month or more”, in both the places where they occur, the words “more than rupees two thousand two hundred and fifty” shall be substituted;
- (b) in clause (b), for the words “exceeding thirty lakhs of rupees”, the words “exceeding fifty lakhs of rupees” shall be substituted.
5. In section 21 of the principal Act, in clause (b) of the proviso to sub-section (3), the words “or seven and a half lakhs of rupees, whichever is less,” shall be omitted.

THE SUGARCANE CONTROL (ADDITIONAL POWERS)  
ACT, 1962

No. 39 OF 1962

[16th September, 1962]

An Act to empower the Central Government to amend the Sugarcane (Control) Order, 1955 with retrospective effect in respect of certain matters.

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 Sugarcane Control (Additional Powers) Act, 1962.

Power to amend the Sugarcane (Control) Order with retrospective effect in respect of certain matters.

2. Notwithstanding that no provision has been made in section 3 of the Essential Commodities Act, 1955, for making an order under <sup>10 of 1955.</sup> that section with retrospective effect, the Central Government may, if satisfied that public interest so requires, by order notified in the Official Gazette, amend either prospectively or retrospectively the Sugarcane (Control) Order in respect of any matter for which provision has been made in clause 3A and the Schedule of that Order, and any such amendment may contain such supplemental, incidental and consequential provisions as the Central Government may deem necessary:

Provided that no such order shall be made so as to have retrospective effect from a date earlier than the 1st day of November, 1958.

*Explanation.*—In this section ‘Sugarcane (Control) Order’ means the Sugarcane (Control) Order, 1955 made under section 3 of the Essential Commodities Act, 1955 by notification of the Government <sup>10 of 1955.</sup> of India in the Ministry of Food and Agriculture, S.R.O. No. 1863 dated the 27th August, 1955 and as amended from time to time.

THE APPROPRIATION (RAILWAYS) No. 5 ACT, 1962

No. 40 OF 1962

[24th November, 1962]

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 Thirteenth Year of the Republic of India as follows:—

1. This Act may be called the Appropriation (Railways) No. 5 Short title. Act, 1962.
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 four crores, eighty-one lakhs and ninety-two 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.  
Issue of Rs. 4,81,92,000 out of the Consolidated Fund of India for the financial year 1962-63.
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.
7	Ordinary Working Expenses— Operation (Fuel)	2,55,08,000	..	2,55,08,000
9	Ordinary Working Expenses— Miscellaneous Expenses	2,10,41,000	13,68,000	2,24,09,000
15	Construction of New Lines	50,000	..	50,000
26	Open Line Works—Additions	2,25,000	..	2,25,000
TOTAL		4,68,24,000	13,68,000	4,81,92,000

## THE APPROPRIATION (No. 5) ACT, 1962

NO. 41 OF 1962

[24th November, 1962]

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 Thirteenth Year of the Republic of India as follows:—

1. This Act may be called the Appropriation (No. 5) Act, 1962. 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 one hundred crores, thirty-nine lakhs and eighty-six 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.  
Issue of Rs. 1,00,39,86,000 out of the Consolidated Fund of India for the year 1962-63.
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	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
9	Defence Services, Effective—Army . . .	Rs. 67,00,00,000	Rs. ..	Rs. 67,00,00,000
11	Defence Services, Effective—Air Force . . .	8,00,00,000	..	800,00,000
25	Union Excise Duties . . .	40,00,000	..	40,00,000
26	Taxes on Income including Corporation Tax, etc. . .	39,50,000	..	39,50,000
49	Cabinet . . . .	3,00,000	..	3,00,000
56	Delhi . . . .	..	61,000	61,000
97	Indian Posts and Telegraphs Department . . .	4,50,00,000	..	4,50,00,000
111	Secretariat of the Vice-President. . . .	56,000	..	56,000
114	Defence Capital Outlay . . .	20,00,00,000	..	20,00,00,000
125	Purchase of Foodgrains . . .	..	5,50,000	5,50,000
126	Other Capital Outlay of the Ministry of Food and Agriculture . . . .	..	25,000	25,000
139	Other Capital Outlay of the Ministry of Transport and Communications . . .	..	43,000	43,000
144	Capital Outlay of the Department of Atomic Energy . . .	1,000	..	1,000
TOTAL . . .		Rs. 1,00,33,07,000	Rs. 6,79,000	Rs. 1,00,39,86,000

**THE FOREIGNERS LAW (APPLICATION AND  
AMENDMENT) ACT, 1962**

No. 42 OF 1962

[24th November, 1962]

An Act to apply the Registration of Foreigners Act, 1939 and the Foreigners Act, 1946 to certain persons to whom they do not at present apply and further to amend the Foreigners Act, 1946.

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

1. This Act may be called the Foreigners Law (Application and Short title. Amendment) Act, 1962.

2 Notwithstanding anything contained in any other law for the Application of Act time being in force, the provisions of the Registration of Foreigners 16 of Act, 1939, and the Foreigners Act, 1946, and of the rules and orders 1939 and made thereunder shall apply to and in relation to any person who, or either of whose parents, or any of whose grand-parents was at any Act 31 of 1946 to cer-  
time a citizen or subject of any country at war with, or committing tain per-  
sons.  
external aggression against, India or of any other country assisting the country at war with, or committing such aggression against, India, as they apply to and in relation to foreigners as defined for the purposes of those Acts.

3. In the Foreigners Act, 1946,—

Amend-  
ment of  
Act 31 of

(a) in section 3, after clause (f) of sub-section (2), the following clause shall be inserted, namely:—

“(g) shall be arrested and detained or confined;”;

(b) in section 4,—

(i) before sub-section (2), the following sub-section shall be inserted, namely:—

“(1) Any foreigner (hereinafter referred to as an internee) in respect of whom there is in force any order

232 *Foreigners Law (Application and Amendment)* [ACT 42 OF 1962]

made under clause (g) of sub-section (2) of section 3, directing that he be detained or confined, shall be detained or confined in such place and manner and subject to such conditions as to maintenance, discipline and the punishment of offences and breaches of discipline as the Central Government may from time to time by order determine.”;

(ii) for sub-sections (3) and (4), the following sub-sections shall be substituted, namely:—

“(3) No person shall—

(a) knowingly assist an internee or a person on parole to escape from custody or the place set apart for his residence, or knowingly harbour an escaped internee or person on parole, or

(b) give an escaped internee or person on parole any assistance with intent thereby to prevent, hinder or interfere with the apprehension of the internee or the person on parole.

(4) The Central Government may, by order, provide for regulating access to, and the conduct of persons in, places in India where internees or persons on parole are detained or restricted, as the case may be, and for prohibiting or regulating the despatch or conveyance from outside such places to or for internees or persons on parole therein of such articles as may be prescribed.”

Repeal and  
Saving.

4. (1) The Foreigners Law (Application and Amendment) Ordinance, 1962 is hereby repealed. 5 of 1962

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act, as if this Act had commenced on the 26th October, 1962.

# THE COMPANIES (AMENDMENT) ACT, 1962

NO. 43 OF 1962

[28th November, 1962]

## An Act further to amend the Companies Act, 1956.

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

1. (1) This Act may be called the Companies (Amendment) Act, 1962. Short title and duration.

(2) It shall remain in force during the period of operation of the Proclamation of Emergency issued under clause (1) of article 352 of the Constitution on the 26th October, 1962.

1 of 1956. 2. In the Companies Act, 1956, after section 293A, the following section shall be inserted, namely:— Insertion of new section 293 B.

"293B. (1) The Board of directors of any company may, notwithstanding anything contained in sections 293 and 293A or in the memorandum, articles or any other instrument relating to the company, contribute such amount as it thinks fit to the National Defence Fund or any other Fund approved by the Central Government for the purpose of national defence. Power of Board to make contributions to National Defence Fund, etc.

(2) Every company shall disclose in its profit and loss account the total amount or amounts contributed by it to the Fund referred to in sub-section (1), during the financial year to which the account relates.”

7 of 1962. 3. (1) The Companies (Amendment) Ordinance, 1962, is hereby repealed. Repeal and Saving.

(2) Notwithstanding such repeal, anything done under the said Ordinance shall be deemed to have been done under this Act as if this Act had commenced on the 3rd November, 1962.

## THE ELECTRICITY (SUPPLY) AMENDMENT ACT, 1962

NO. 44 OF 1962

[28th November, 1962]

### An Act further to amend the Electricity (Supply) Act, 1948.

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 Electricity (Supply) Amendment Act, 1962.

**Insertion of new section 20A.**

2. After section 20 of the Electricity (Supply) Act, 1948, the following section shall be inserted, namely:

**Power to acquire projects, etc., on lease**

"20A. Without prejudice to the generality of the power of the Board to acquire any property, the Board may acquire from the State Government on lease any project relating to the generation of electricity and all transmission lines and other works connected with such project or any part of such project, transmission lines or other works on such terms and conditions including terms and conditions relating to the operation and maintenance thereof as may be agreed upon between the State Government and the Board."

**THE HINDU ADOPTIONS AND MAINTENANCE  
(AMENDMENT) ACT, 1962**

No. 45 OF 1962

[29th November, 1962]

**An Act further to amend the Hindu Adoptions and Maintenance Act, 1956.**

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

1. This Act may be called the Hindu Adoptions and Maintenance Short title.  
(Amendment) Act, 1962.

78 of 1956. 2. In section 2 of the Hindu Adoptions and Maintenance Act, 1956 Amend-  
ment of  
section 2.  
(hereinafter referred to as the principal Act), in the *Explanation* to sub-section (1)—

(a) in clause (b), the word “and” occurring at the end shall be omitted;

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

“(bb) any child, legitimate or illegitimate, who has been abandoned both by his father and mother or whose parentage is not known and who in either case is brought up as a Hindu, Buddhist, Jaina or Sikh; and”.

3. In section 9 of the principal Act,—

Amend-  
ment of  
section 9.

(a) in sub-section (2), for the words, brackets and figure “sub-section (3)”, the words, brackets and figures “sub-section (3) and sub-section (4)” shall be substituted;

(b) for sub-section (4) the following sub-section shall be substituted, namely:—

"(4) Where both the father and mother are dead or have completely and finally renounced the world or have abandoned the child or have been declared by a court of competent jurisdiction to be of unsound mind or where the parentage of the child is not known, the guardian of the child may give the child in adoption with the previous permission of the court to any person including the guardian himself.;"

(c) in the *Explanation*—

(i) in clause (i), the word "and" at the end shall be omitted;

(ii) after clause (i), the following clause shall be inserted, namely:—

'(ia) "guardian" means a person having the care of the person of a child or of both his person and property and includes—

(a) a guardian appointed by the will of the child's father or mother, and

(b) a guardian appointed or declared by a court; and'.

Amend-  
ment of  
section 11.

4. In section 11 of the principal Act, in clause (vi), after the words "from the family of its birth", the words "or in the case of an abandoned child or a child whose parentage is not known, from the place or family where it has been brought up" shall be inserted.

# THE METAL TOKENS (AMENDMENT) ACT, 1962

No. 46 OF 1962

[29th November, 1962]

An Act further to amend the Metal Tokens Act, 1889.

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

1. This Act may be called the Metal Tokens (Amendment) Act, Short title. 1962.

**1 of 1889.** 2. For sub-section (2) of section 1 of the Metal Tokens Act, 1889 <sup>Amendment of</sup> (hereinafter referred to as the principal Act), the following sub- section 1. section shall be substituted, namely:—

"(2) It extends to the whole of India."

3. For section 2 of the principal Act, the following section shall <sup>Amendment of</sup> be substituted, namely:—

**2 of 1878.** 2. In this Act "issue" means to put a piece of metal into circulation for the first time for use as money in India, such piece having been made in contravention of this Act or brought into India by sea or by land in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878.'

4. In section 6 of the principal Act, for the words "the said territories" wherever they occur, the word "India" shall be substituted. <sup>Amendment of</sup> section 6.

# THE INDIAN TARIFF (AMENDMENT) ACT, 1962

No. 47 OF 1962

[5th December, 1962]

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 commencement.** 1. (1) This Act may be called the Indian Tariff (Amendment) Act, 1962.

(2) It shall come into force on the 1st day of January, 1963.

**Amendment of First Schedule.** 2. In the Indian Tariff Act, 1934, in the First Schedule, 32 of 1934

(1) in Item No. 28(20),—

(a) in the third column headed "Nature of duty", for the word "Protective", wherever it occurs, the word "Revenue" shall be substituted;

(b) for the entries in the fourth column, the entries "50 per cent. *ad valorem*" shall be substituted; and

(c) in the last column headed "Duration of protective rates of duty", the existing entries shall be omitted;

(2) in Items Nos. 60(7), 64(5), 70A, 72(35), 72(36) and 72(37), in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1962", wherever they occur, the word, figures and letters "December 31st, 1965" shall be substituted;

(3) in Item No. 64(3),—

(a) in the second column headed "Name of article", for the words "Copper rods, other than electrolytic copper rods", the words "Extruded copper rods and sections other than electrolytic copper rods" shall be substituted; and

(b) in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1962", wherever they occur, the word, figures and letters "December 31st, 1965" shall be substituted;

(4) in Items Nos. 67(2), 68(2), 68(4) and 82(3),—

(a) in the third column headed "Nature of duty", for the word "Protective", wherever it occurs, the word "Revenue" shall be substituted; and

(b) in the last column headed "Duration of protective rates of duty", the existing entries shall be omitted;

(5) after Item No. 68(2), the following Item shall be inserted, namely:—

"68(2A)	Highly polished zinc sheets for making process blocks	Protective	35 per cent. <i>ad valorem</i>	.. .. December 31st, 1965";
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(6) in Item No. 70(5),—

(a) in the second column headed "Name of article", for the words "Brass rods", the words "Extruded brass rods and sections", shall be substituted; and

(b) in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1962", the word, figures and letters "December 31st, 1965" shall be substituted;

(7) in Item No. 72(2), the words "or zinc" appearing in the second column headed "Name of article" shall be omitted.

THE EMPLOYEES' PROVIDENT FUNDS (AMENDMENT)  
ACT, 1962

No. 48 OF 1962

[5th December, 1962]

An Act further to amend the Employees' Provident Funds  
Act, 1952.

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

Short  
title and  
commencement.

1. (1) This Act may be called the Employees' Provident Funds  
(Amendment) Act, 1962.

(2) It shall come into force on such date<sup>1</sup> as the Central Gov-  
ernment may, by notification in the Official Gazette, appoint.

Amend-  
ment of  
section 6.

2. In sub-section (1) of section 6 of the Employees' Provident  
Funds Act, 1952, in the proviso, for the words "Provided that", the  
following shall be substituted, namely:—

"Provided that in its application to any establishment or  
class of establishments which the Central Government, after  
making such enquiry as it deems fit, may by notification in the  
Official Gazette specify, this sub-section shall be subject to the  
modification that for the words 'six and a quarter per cent.', the  
words 'eight per cent' shall be substituted:

Provided further that".

19 of 1952

<sup>1</sup>1st January, 1963; vide Notification No. S.O. 3792, dated 13-12-1962, Gazette  
of India, Extraordinary, Pt. II, Sec. 3 (ii), . 2335

# THE PONDICHERRY (ADMINISTRATION) ACT, 1962

No. 49 OF 1962

[5th December, 1962]

An Act to provide for the administration of Pondicherry and for matters connected therewith.

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

1. (1) This Act may be called the Pondicherry (Administration) Act, 1962.

Short title,  
extent and  
commencement.

(2) It extends to the whole of Pondicherry.

(3) It shall be deemed to have come into force on the 16th day of August, 1962.

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

(a) "Administrator" means the Administrator of Pondicherry appointed by the President under article 239 of the Constitution;

(b) "appointed day" means the 16th day of August, 1962, being the date of entry into force of the Treaty of Cession;

(c) "former French Establishments" mean the territories which immediately before the appointed day were comprised in the French Establishments in India known as Pondicherry, Karikal, Mahe and Yanam;

(d) "High Court" means the High Court at Madras;

(e) "law" means any Act, Ordinance, Regulation, rule, order, bye-law, decree or other provision (by whatever name called) having the force of law;

(f) "Pondicherry" means the Union territory comprising the territories of the former French Establishments;

(g) "Treaty of Cession" means the treaty concluded between France and India on the 28th day of May, 1956, establishing the cession of the French Establishments by France to India in full sovereignty.

Officers  
and func-  
tionaries in  
relation to  
Pondi-  
cherry.

3. Without prejudice to the powers of the Central Government to appoint from time to time such officers and authorities as may be necessary for the administration of Pondicherry, all courts, tribunals, authorities and officers, whether in India or in the former French Establishments, who immediately before the appointed day, were exercising lawful functions in connection with the administration of those Establishments or any part thereof, including the Council of Government and the Representative Assembly, shall unless otherwise directed at any time by the Central Government or the Administrator in relation to any such court, tribunal, authority or officer, or until other provision is made by law, continue to exercise in connection with the administration of Pondicherry their respective powers and jurisdiction and perform their respective duties and functions in the same manner and to the same extent as before the appointed day with such altered designation, if any, as that Government may determine.

Continu-  
ance of  
existing  
laws and  
their-adap-  
tation.

4. (1) All laws in force immediately before the appointed day in the former French Establishments or any part thereof shall continue to be in force in Pondicherry until amended or repealed by a competent Legislature or other competent authority:

Provided that references in any such law to the President or Government of the French Republic shall be construed as references to the Central Government, references to the Governor of the French Establishments in India, to the Commissioner of the Republic for the French Establishments in India, to the Chief Commissioner for the French Establishments, to the Chief Commissioner of the State of Pondicherry or to the Chief Commissioner, Pondicherry shall be construed as references to the Administrator of Pondicherry and references to the State of Pondicherry shall be construed as references to Pondicherry.

(2) For the purpose of facilitating the application of any such law in relation to the administration of Pondicherry and for the purpose of bringing the provisions of any such law into accord with the provisions of the Constitution, the Central Government may, within three years from the appointed day, by order, make such adaptations and modifications, whether by way of repeal or amendment, as may be necessary or expedient and thereupon every such law shall have effect subject to the adaptations and modifications so made.

5. For the avoidance of doubt, it is hereby declared that all property and assets within Pondicherry which, immediately before the appointed day, vested in the Government of the French Republic shall, save as otherwise expressly provided in the Treaty of Cession, vest in the Union.

6. Subject to the provisions of the Treaty of Cession, all rights, liabilities and obligations of the Government of the French République in relation to or arising out of the administration of the former French Establishments shall, as from the appointed day, be the rights, liabilities and obligations of the Central Government.

7. All taxes, duties, cesses and fees which, immediately before the appointed day, were being lawfully levied in the former French Establishments or any part thereof shall continue to be levied in Pondicherry and to be applied to the same purposes, until other provision is made by a competent Legislature or other competent authority.

8. The Central Government may, by notification in the Official Power to Gazette, extend with such restrictions and modifications as it thinks fit, to Pondicherry any enactment which is in force in a State at the date of the notification.

9. As from the 6th day of November, 1962, the jurisdiction of the High Court shall extend to Pondicherry.

10. (1) Without prejudice to the generality of the provisions of section 9, the High Court shall have, in respect of Pondicherry, all such jurisdiction as under the law in force immediately before the appointed day was exercisable in respect of the former French Establishments by the Cour de Cassation, the Cour Supérieur d' Arbitrage and the Conseil d' Etat of France:

Provided that while determining appeals from decisions of courts and tribunals in Pondicherry, the High Court shall, as far as may be, follow the same procedure and have the same power to pass any judgment, decree or order thereon, as it follows and has while determining appeals from decisions of courts in the State of Madras.

(2) All appeals and other proceedings from or in respect of any judgment, decree or order of any court or tribunal in the former French Establishments pending immediately before the appointed day before the Cour de Cassation or the Cour Supérieur d' Arbitrage

Property and assets.  
Rights and obligations.  
Continuance of existing taxes.  
extend enactments to Pondicherry.

Extension of the jurisdiction of Madras High Court to Pondicherry.

Jurisdiction of High Court.

or the Conseil d' Etat of France and all original proceedings in relation to those Establishments pending immediately before the appointed day before the Conseil d' Etat shall, by virtue of this Act, stand transferred to the High Court and shall be disposed of by the High Court in the exercise of jurisdiction conferred on it by this Act, as if such appeals and other proceedings had been filed before the High Court.

*Explanation.*—All appeals and other proceedings filed before the appointed day but not transmitted to the Cour de Cassation or the Cour Supérieur d' Arbitrage or the Conseil d' Etat shall be deemed to be appeals or proceedings, as the case may be, pending before that Court for the purposes of this sub-section.

Advocates  
entitled to  
practise  
before  
High  
Court.

11. Notwithstanding anything contained in the Advocates Act, 1961, but subject to such rules as may be framed by the High Court, 25 of 1961 any person who is entitled to practise before the Tribunal Supérieur d' Appel at Pondicherry shall be recognised as an advocate entitled to practise in the High Court in relation to cases coming before the High Court from Pondicherry.

Power of  
High Court  
to make  
rules.

12. The High Court may, from time to time, make rules, consistent with this Act, to provide for all or any of the following matters, namely:—

(a) the translation of any papers filed in the High Court and the preparation of paper books for hearing all appeals and the copying, typing or printing of any such papers or translation and the recovery from the persons at whose instance or on whose behalf papers are filed of the expenses thereby incurred;

(b) the court-fees payable for instituting proceedings in the High Court, the fees to be charged for processes issued by the High Court or by any officer of the court and the amount payable in any proceeding in the High Court in respect of fees of the advocate of any party to such proceeding;

(c) the procedure to be followed in the High Court;

(d) the approval, admission, enrolment, removal and suspension of advocates from Pondicherry.

Validation  
of certain  
orders and  
decrees.

13. (1) Every order or decree purported to have been made by the Cour de Cassation, the Cour Supérieur d' Arbitrage or the Conseil d' Etat of France during the period commencing on the first day of November, 1954, and ending on the appointed day, in any appeal or other proceeding from, or in respect of any judgment, decree or order of any court, tribunal or other authority in the former French Establishments shall be deemed to have been validly made, in

accordance with law; and shall for all purposes have effect as if it were an order or a decree made by the High Court in the exercise of the jurisdiction conferred by this Act.

(2) Notwithstanding anything contained in sub-section (1), where any decision has been rendered after the 17th March, 1960, by any court in France in any case in which the respondent had no opportunity to appear for want of service of summons transmitted through the Administration of the former French Establishments, such decision shall be deemed never to have been rendered and shall be deemed to be pending before the court by which such decision was rendered and accordingly stand transferred to the High Court or, as the case may be, to the court in Pondicherry corresponding to the court in France in which the case shall be deemed to be pending.

(3) As soon as may be after the 6th day of November, 1962, the Administrator shall transmit to the High Court or, as the case may be, to the corresponding court, the record of every such case as is referred to in sub-section (2), together with a certificate that the summons in that case was not served on the respondent.

14. (1) The periods of limitation for appeals to the High Court shall be as set out below:—

Limitation  
for  
appeals.

S. No.	Description of appeal	Period of limitation	Time from which period begins to run
1.	Civil Appeal against any judgment or order.	90 days	The date of the judgment or order.
2.	Criminal Appeal against a sentence of death.	7 days	The date of sentence.
3.	Criminal Appeal against any sentence or order other than a sentence of death.	30 days	The date of the sentence or order.
4.	Criminal Appeal against an order of acquittal.	90 days	The date of the order of acquittal.
5.	Labour Appeal under section 207 of the French Labour Code, 1952.	30 days	The date of the judgment or order.
6.	Labour Appeal under section 216 of the French Labour Code, 1952.	30 days	The date on which the report and the recommendation of the expert are communicated to the party appealing.
7.	Appeal against a judgment or order of the Administrative Tribunal at Pondicherry.	90 days	The date of the judgment or order.

(2) Except in the case of a Criminal Appeal against a sentence of death, in computing the period of limitation, the time taken for obtaining a certified copy of the judgment, order, report and recommendation, appealed against, as the case may be, shall be excluded.

(3) In the case of an appeal preferred by an accused person under sentence and in custody, the date on which he lodges the memorandum of appeal with the Superintendent of the Jail in which he is detained shall be deemed to be the date of presentation of the appeal in the High Court.

(4) Any appeal may be admitted after the period of limitation prescribed therefor when the appellant satisfies the Court that he had sufficient cause for not preferring the appeal within such period.

Saving of  
limitation  
in certain  
cases.

15. In computing the period of limitation under section 14 or under any other law, any period during which an appeal could not be filed or a proceeding could not be instituted because the jurisdiction of the High Court did not extend to Pondicherry shall be excluded.

Rule of  
construction.

16. References in any law in force in Pondicherry to the Cour de Cassation, the Cour Supérieure d' Arbitrage or the Conseil d' Etat shall be construed as references to the High Court.

Power to  
construe  
laws.

17. For the purpose of facilitating the application of any law in relation to Pondicherry, any court or other authority may construe any such law in such manner not affecting the substance, as may be necessary or proper to adapt it to the matter before the court or other authority.

Effect of  
other  
laws.

18. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law in force in Pondicherry.

Power to  
remove  
difficulties.

19. (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 any such provisions as appear to it to be necessary or expedient for removing the difficulty.

(2) Any order under sub-section (1) may be made so as to be retrospective to any date not earlier than the appointed day.

Repeal and  
saving.

20. (1) The Pondicherry (Administration) Ordinance, 1962, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

THE PETROLEUM PIPELINES (ACQUISITION OF  
RIGHT OF USER IN LAND) ACT, 1962

No. 50 OF 1962

[7th December, 1962]

An Act to provide for the acquisition of right of user in land for laying petroleum pipelines and for matters connected therewith.

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

1. (1) This Act may be called the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962.

Short title,  
extent and  
application.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It applies in the first instance to the whole of the States of West Bengal, Bihar, Uttar Pradesh and Gujarat and the Union territory of Delhi; and the Central Government may, by notification in the Official Gazette, declare that this Act shall also apply to such other State or Union territory and with effect from such date as may be specified in that notification and thereupon the provisions of this Act shall apply to that State or Union territory accordingly.

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

Definitions.

(a) "competent authority" means any person or authority authorised by the Central Government, by notification in the Official Gazette, to perform the functions of the competent authority under this Act;

(b) "corporation" means any body corporate established under any Central, Provincial or State Act, and includes—

(i) a company formed and registered under the Companies Act, 1956; and

(ii) a company formed and registered under any law relating to companies formerly in force in any part of India;

1 of 1956.

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User in Land)

(c) "petroleum" has the same meaning as in the Petroleum Act, 1934, and includes natural gas and refinery gas;

30 of 1934.

(d) "prescribed" means prescribed by rules made under this Act.

Publication of notification for acquisition.

3. (1) Whenever it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from one locality to another locality pipelines may be laid by that Government or by any State Government or a corporation and that for the purpose of laying such pipelines it is necessary to acquire the right of user in any land under which such pipelines may be laid, it may, by notification in the Official Gazette, declare its intention to acquire the right of user therein.

(2) Every notification under sub-section (1) shall give a brief description of the land.

(3) The competent authority shall cause the substance of the notification to be published at such places and in such manner as may be prescribed.

Power to enter, survey, etc.

4. On the issue of a notification under sub-section (1) of section 3, it shall be lawful for any person authorised by the Central Government or by the State Government or the corporation which proposes to lay pipelines for transporting petroleum, and his servants and workmen—

(a) to enter upon and survey and take levels of any land specified in the notification;

(b) to dig or bore into the sub-soil;

(c) to set out the intended line of work;

(d) to mark such levels, boundaries and line by placing marks and cutting trenches;

(e) where otherwise survey cannot be completed and levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle; and

(f) to do all other acts necessary to ascertain whether pipelines can be laid under the land;

Provided that while exercising any power under this section, such person or any servant or workman of such person shall cause as little damage or injury as possible to such land.

5. (1) Any person interested in the land may, within twenty-one days from the date of the notification under sub-section (1) of section 3, object to the laying of the pipelines under the land.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing and shall set out the grounds thereof and the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and may, after hearing all such objections and after making such further inquiry, if any, as that authority thinks necessary, by order either allow or disallow the objections.

(3) Where in respect of any land, a notification has been issued under sub-section (2) shall be final.

6. (1) Where no objections under sub-section (1) of section 3 have been made to the competent authority within the period specified therein or where the competent authority has disallowed the objections under sub-section (2) of that section, that authority shall, as soon as may be, submit a report accordingly to the Central Government and upon receipt of such report the Central Government shall declare, by notification in the Official Gazette, that the right of user in the land for laying the pipelines should be acquired.

(2) On the publication of the declaration under sub-section (1), the right of user in the land shall vest absolutely in the Central Government free from all encumbrances.

(3) Where in respect of any land, a notification has been issued under sub-section (1) of section 3 but no declaration under this section has been published within a period of one year from the date of that notification, that notification shall cease to have effect on the expiration of that period.

(4) Notwithstanding anything contained in sub-section (2), the Central Government may, on such terms and conditions as it may think fit to impose, direct by order in writing, that the right of user in the land for laying the pipelines shall, instead of vesting in the Central Government vest, either on the date of publication of the declaration or, on such other date as may be specified in the direction, in the State Government or the corporation proposing to lay the pipelines and thereupon the right of such user in the land shall, subject to the terms and conditions so imposed, vest in that State Government or corporation, as the case may be, free from all encumbrances.

Central Government or State Government or corporation to lay pipelines.

7. (1) Where the right of user in any land has vested in the Central Government or in any State Government or corporation under section 6—

(i) it shall be lawful for any person authorised by the Central Government or such State Government or corporation, as the case may be, and his servants and workmen to enter upon the land and lay pipelines or to do any other act necessary for the laying of pipelines:

Provided that no pipeline shall be laid under—

(a) any land which, immediately before the date of the notification under sub-section (1) of section 3, was used for residential purposes;

(b) any land on which there stands any permanent structure which was in existence immediately before the said date;

(c) any land which is appurtenant to a dwelling house; or

(d) any land at a depth which is less than one metre from the surface; and

(ii) such land shall be used only for laying the pipelines and for maintaining, examining, repairing, altering or removing any such pipelines or for doing any other act necessary for any of the aforesaid purposes or for the utilisation of such pipelines.

(2) If any dispute arises with regard to any matter referred to in paragraph (b) or paragraph (c) of the proviso to clause (i) of sub-section (1), the dispute shall be referred to the competent authority whose decision thereon shall be final.

Power to enter land for inspection, etc.

8. For maintaining, examining, repairing, altering or removing any pipeline, or for doing any other act necessary for the utilisation of the pipelines or for the making of any inspection or measurement for any of the aforesaid purposes, any person authorised in this behalf by the Central Government, the State Government or the corporation, as the case may be, may, after giving reasonable notice to the occupier of the land under which the pipeline has been laid, enter therein with such workmen and assistants as may be necessary:

Provided that, where such person is satisfied that an emergency exists, no such notice shall be necessary:

Provided further that, while exercising any powers under this section, such person or any workman or assistant of such person, shall cause as little damage or injury as possible to such land.

**9. (1)** The owner or occupier of the land with respect to which a declaration has been made under sub-section (1) of section 6, shall be entitled to use the land for the purpose for which such land was put to use immediately before the date of the notification under sub-section (1) of section 3:

Restrictions  
regarding  
the use of  
land.

Provided that, such owner or occupier shall not after the declaration under sub-section (1) of section 6—

- (i) construct any building or any other structure;
- (ii) construct or excavate any tank, well, reservoir or dam; or
- (iii) plant any tree,  
on that land.

**(2)** The owner or occupier of the land under which any pipeline has been laid shall not do any act or permit any act to be done which will or is likely to cause any damage in any manner whatsoever to the pipeline.

**10. (1)** Where in the exercise of the powers conferred by section 4, section 7 or section 8 by any person, any damage, loss or injury is sustained by any person interested in the land under which the pipeline is proposed to be, or is being, or has been laid, the Central Government, the State Government or the corporation, as the case may be, shall be liable to pay compensation to such person for such damage, loss or injury, the amount of which shall be determined by the competent authority in the first instance.

Compensation.

**(2)** If the amount of compensation determined by the competent authority under sub-section (1) is not acceptable to either of the parties, the amount of compensation shall, on application by either of the parties to the District Judge within the limits of whose jurisdiction the land or any part thereof is situated, be determined by that District Judge.

**(3)** The competent authority or the District Judge while determining the compensation under sub-section (1) or sub-section (2), as the case may be, shall have due regard to the damage or loss sustained by any person interested in the land by reason of—

- (i) the removal of trees or standing crops, if any, on the land while exercising the powers under section 4, section 7 or section 8;

(ii) the temporary severance of the land under which the pipeline has been laid from other lands belonging to, or in the occupation of, such person; or

(iii) any injury to any other property, whether movable or immovable, or the earnings of such persons caused in any other manner:

Provided that in determining the compensation no account shall be taken of any structure or other improvement made in the land after the date of the notification under sub-section (1) of section 3.

(4) Where the right of user of any land has vested in the Central Government, the State Government or the corporation, the Central Government, the State Government or the corporation, as the case may be, shall, in addition to the compensation, if any, payable under sub-section (1), be liable to pay to the owner and to any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such vesting, compensation calculated at ten per cent. of the market value of that land on the date of the notification under sub-section (1) of section 3.

(5) The market value of the land on the said date shall be determined by the competent authority and if the value so determined by that authority is not acceptable to either of the parties, it shall, on application by either of the parties to the District Judge referred to in sub-section (2), be determined by that District Judge.

(6) The decision of the District Judge under sub-section (2) or sub-section (5) shall be final.

Deposit and payment of compensation.

11. (1) The amount of compensation determined under section 10 shall be deposited by the Central Government, the State Government or the corporation, as the case may be, with the competent authority within such time and in such manner as may be prescribed.

(2) If the amount of compensation is not deposited within the time prescribed under sub-section (1), the Central Government, the State Government or the corporation, as the case may be, shall be liable to pay interest thereon at the rate of six per cent. per annum from the date on which the compensation had to be deposited till the date of the actual deposit.

(3) As soon as may be after the compensation has been deposited under sub-section (1) the competent authority shall, on behalf of the Central Government, the State Government or the corporation, as the case may be, pay the compensation to the persons entitled thereto.

(4) Where several persons claim to be interested in the amount of compensation deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the compensation and the amount payable to each of them.

(5) If any dispute arises as to the apportionment of the compensation or any part thereof or as to the persons to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the District Judge within the limits of whose jurisdiction the land or any part thereof is situated and the decision of the District Judge thereon shall be final.

12. The competent authority shall have, for the purposes of this Act, 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:—

Competent authority to have certain powers of civil courts.

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) reception of evidence on affidavits;
- (d) requisitioning any public record from any court or office;
- (e) issuing commission for examination of witnesses.

13. (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 in pursuance of this Act or any rule or notification made or issued thereunder.

(2) No suit or other legal proceeding shall lie against the Central Government, the competent authority or any State Government, or corporation for any damage, loss or injury 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 notification made or issued thereunder.

14. Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction in respect of any matter which the competent authority is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or proposed to be taken in pursuance of any power conferred by or under this Act.

Bar of jurisdiction of civil courts.

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Penalty.

15. (1) Whoever wilfully obstructs any person in doing any of the acts authorised by section 4 or section 7 or section 8 or wilfully fills up, destroys, damages or displaces any trench or mark made under section 4 or wilfully does any act prohibited under section 9, shall be punishable with imprisonment which may extend to six months or with fine or with both.

(2) Whoever wilfully removes, displaces, damages or destroys any pipeline laid under section 7, shall be punishable with rigorous imprisonment for a term which shall not be less than one year, but which may extend to three years and shall also be liable to fine.

Certain  
offence to  
be cogniz-  
able.

16. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence falling under sub-section (2) of section 15 shall be deemed to be cognizable within the meaning of that Code.<sup>5 of 1898</sup>

Power to  
make  
rules.

17. (1) The Central Government may, 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, namely:—

(a) the places at which and the manner in which the substance of the notification may be published under sub-section (3) of section 3;

(b) the time within which and the manner in which the amount of compensation may be deposited under sub-section (1) of section 11.

(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.

Applica-  
tion of  
other  
laws not  
barred.

18. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force relating to acquisition of land.

# THE DEFENCE OF INDIA ACT, 1962

## ARRANGEMENT OF SECTIONS

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#### PRELIMINARY

##### SECTIONS

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4. Special powers to control civilian personnel employed in connection with the Armed Forces of the Union.
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9. Dismissal of members of Civil Defence Service.
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21. National Service Tribunals.
22. Notified establishments.
23. Employment of technical personnel in the national service.
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25. Relinquishment of employment by, dismissal of, and engagement by establishment of, technical personnel.
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29. Requisitioning of immovable property.
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43. Effect of Act and rules, etc., inconsistent with other enactments.
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45. Savings as to orders.
46. Chapter III not to apply to measures taken for the protection of Armed Forces.
47. Protection of action taken under the Act.
48. Repeal and saving.
49. Validation of certain requisitions.

# THE DEFENCE OF INDIA ACT, 1962

No. 51 OF 1962

[12th December, 1962]

An Act to provide for special measures to ensure the public safety and interest, the defence of India and civil defence and for the trial of certain offences and for matters connected therewith.

WHEREAS the President has declared by Proclamation under clause (1) of article 352 of the Constitution that a grave emergency exists whereby the security of India is threatened by external aggression;

AND WHEREAS it is necessary to provide for special measures to ensure the public safety and interest, the defence of India and civil defence and for the trial of certain offences and for matters connected therewith;

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

## CHAPTER I

### PRELIMINARY

1. (1) This Act may be called the Defence of India Act, 1962.
- (2) It extends to the whole of India and it applies also—
  - (a) to citizens of India outside India;
  - (b) to persons in the service of the Government, wherever they may be;
  - (c) in respect of the regulation and discipline of the naval, military and air forces or any other armed forces of the Union, to members of, and persons attached to, employed with, or following, those forces, wherever they may be;
  - (d) to, and to persons on, ships and aircraft registered in India, wherever they may be.

Short title,  
extent,  
applica-  
tion, dura-  
tion and  
savings.

(3) It shall remain in force during the period of operation of the Proclamation of Emergency issued on the 26th October, 1962, and for a period of six months thereafter but its expiry under the operation of this sub-section shall not affect—

(a) the previous operation of, or anything duly done or suffered under, this Act or any rule made thereunder or any order made under any such rule, or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under this Act or any rule made thereunder or any order made under any such rule, or

(c) any penalty, forfeiture or punishment incurred in respect of any offence under this Act or any contravention of any rule made under this Act or of any order made under any such rule, 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 this Act had not expired.

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

(a) "civil defence" includes any measures not amounting to actual combat, for affording defence against any form of hostile attack by a foreign power or for depriving any form of hostile attack by a foreign power of its effect either wholly or in part whether such measures are taken before, during or after the time of the attack;

(b) "Civil Defence Services" mean the services formed wholly or mainly to meet the needs of civil defence;

(c) "enemy" means—

(i) any person or country committing external aggression against India;

(ii) any person belonging to a country committing such aggression;

(iii) such other country as may be declared by the Central Government to be assisting the country committing such aggression;

(iv) any person belonging to such other country;

(d) "enemy territory" means—

(i) any area which is under the sovereignty of a country referred to in sub-clause (i); or a country referred to in sub-clause (iii), of clause (c) of this section;

(ii) any area which the Central Government may, by notification in the Official Gazette, specify to be enemy territory for the purposes of this Act or any rule made thereunder;

(e) "military operations" mean the operations of the Armed Forces of the Union;

(f) "occupied territory" means any territory of India which is for the time being in the occupation of a country referred to in sub-clause (i) or a country referred to in sub-clause (iii), of clause (c) of this section;

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

(h) "Proclamation of Emergency" means the Proclamation issued under clause (1) of article 352 of the Constitution on the 26th October, 1962;

(i) "State Government" in relation to a Union territory means the administrator thereof.

## CHAPTER II

### EMERGENCY POWERS

3. (1) The Central Government may, by notification in the Official Gazette, make such rules as appear to it necessary or expedient for securing the defence of India and civil defence, the public safety, the maintenance of public order or the efficient conduct of military operations, or for maintaining supplies and services essential to the life of the community.

Power to  
make  
rules.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), the rules may provide for, and may empower any authority to make orders providing for, all or any of the following matters, namely:—

(I) ensuring the safety and welfare of the Armed Forces of the Union, ships and aircrafts, and preventing the prosecution of any work likely to prejudice the operations of the Armed Forces of the Union;

(2) prohibiting anything likely to prejudice the training, discipline or health of the Armed Forces of the Union;

(3) preventing any attempt to tamper with the loyalty of persons in, or to dissuade (otherwise than with advice given in good faith to the person dissuaded for his benefit or that of any member of his family or any of his dependents) persons from entering, the service of the Government;

(4) preventing or prohibiting anything likely to assist the enemy or to prejudice the successful conduct of military operations or civil defence including—

(a) communications with the enemy or agents of the enemy;

(b) acquisition, possession without lawful authority or excuse and publication of information likely to assist the enemy;

(c) contribution to, participation or assistance in, the floating of loans raised by or on behalf of the enemy;

(d) advance of money to, or contracts or commercial dealings with the enemy, enemy subjects or persons residing, carrying on business, or being, in enemy territory or occupied territory; and

(e) acts, publications or communications prejudicial to civil defence or military operations;

(5) preventing the spreading without lawful authority or excuse of reports or the prosecution of any purpose, likely to cause disaffection or alarm, or to prejudice India's relations with foreign powers or to prejudice maintenance of peaceful conditions in any area or part of India, or to promote feelings of ill-will, enmity or hatred between different classes of the people of India;

(6) requiring the publication of news and information;

(7) (a) prohibiting the printing or publishing of any newspaper, news-sheet, book or other document containing matters prejudicial to the defence of India and civil defence, the public safety, the maintenance of public order, the efficient conduct of military operations or the maintenance of supplies and services essential to the life of the community;

(b) demanding security from any press used for the purpose of printing or publishing, and forfeiting the copies of, any newspaper, news-sheet, book or other document containing any of the matters referred to in sub-clause (a);

(c) forfeiture of such security and the circumstances in which and the authority by whom such forfeiture may be ordered;

(d) closing down any press or any premises used for the purpose of printing or publishing any newspaper, news-sheet, book or other document containing any of the matters referred to in sub-clause (a) in spite of the forfeiture of such security;

(8) regulating the conduct of persons in respect of areas the control of which is considered necessary or expedient, and the removal of persons from such areas;

(9) requiring any person or class of persons to comply with any scheme of defence or civil defence;

(10) ensuring the safety of—

(a) ports, dockyards, lighthouses, light-ships and aerodromes;

(b) railways, tramways, roads, bridges, canals and all other means of transport by land or water;

(c) telegraphs, post offices, signalling apparatus and all other means of communication;

(d) sources and systems of water-supply, works for the supply of water, gas or electricity, and all other works for public purposes;

(e) vessels, aircraft, transport vehicles as defined in the Motor Vehicles Act, 1939, and rolling stocks of railways and tramways;

(f) warehouses and all other places used or intended to be used for storage purposes;

(g) mines, oil-fields, factories or industrial or commercial undertakings generally, or any mine, oil-field, factory or industrial or commercial undertaking in particular;

(h) laboratories and institutions where scientific or technological research or training is conducted or imparted;

(i) all works and structures being part of, or connected with, anything earlier mentioned in this clause; and

(j) any other place or thing used or intended to be used for the purposes of Government or a local authority or a semi-Government or autonomous organisation, the protection of which is considered necessary or expedient for securing the defence of India and civil defence, the public

safety, the public order, or the efficient conduct of military operations, or for maintaining supplies and services essential to the life of the community;

(11) the demolition, destruction or rendering useless in case of necessity of any building or other premises or any other property;

(12) prohibiting or regulating traffic, and the use of vessels, buoys, lights and signals, in ports and territorial, tidal and inland waters;

(13) the control of lights and sounds;

(14) the control of persons entering, travelling in or departing from, India;

(15) notwithstanding anything in any other law for the time being in force,—

(i) the apprehension and detention in custody of any person whom the authority empowered by the rules to apprehend or detain (the authority empowered to detain not being lower in rank than that of a District Magistrate) suspects, on grounds appearing to that authority to be reasonable, of being of hostile origin or of having acted, acting, being about to act or being likely to act in a manner prejudicial to the defence of India and civil defence, the security of the State, the public safety or interest, the maintenance of public order, India's relations with foreign States, the maintenance of peaceful conditions in any part or area of India or the efficient conduct of military operations, or with respect to whom that authority is satisfied that his apprehension and detention are necessary for the purpose of preventing him from acting in any such prejudicial manner,

(ii) the prohibition of such person from entering or residing or remaining in any area,

(iii) the compelling of such person to reside and remain in any area, or to do or abstain from doing anything, and

(iv) the review of orders of detention passed in pursuance of any rule made under sub-clause (i);

(16) restricting and regulating the charter of foreign vessels and aircraft;

(17) regulating the structure and equipment of vessels for the purpose of ensuring the safety thereof and of persons therein;

- (18) regulating work in dockyards, shipyards and aerodromes in respect of the construction and repairs of vessels and aircraft;
- (19) prohibiting or regulating the sailings of vessels from ports, traffic at aerodromes and the movement of aircraft, and traffic on railways, tramways and roads, and reserving and requiring to be adapted, for the use of the Government, all or any accommodation in vessels, aircraft, railways, tramways or road vehicles for the carriage of persons, animals or goods;
- (20) the impressment of vessels, aircraft, vehicles, and animals for transport;
- (21) prohibiting or regulating the use of postal, telegraphic or telephonic services, including the taking possession of such services, and the delaying, seizing, intercepting or interrupting of postal articles or telegraphic or telephonic messages;
- (22) regulating the delivery otherwise than by postal or telegraphic service of postal articles and telegrams;
- (23) the control of trade or industry for the purpose of regulating or increasing the supply of, and the obtaining of information with regard to articles or things of any description whatsoever which may be used in connection with the conduct of military operations or civil defence or for maintaining supplies and services essential to the life of the community;
- (24) the control of generation, supply, distribution, use or consumption of electrical energy;
- (25) the taking over by the Central Government or the State Government, for a limited period, of the management of any property (including any undertaking) relating to supplies and services essential to the life of the community;
- (26) the control of agriculture (including the cultivation of agricultural land and crops to be raised therein) for the purpose of increasing the production and supply of foodgrains and other essential agricultural products;
- (27) the provision, storage and maintenance of commodities and things required for the conduct of military operations or for the defence of India and civil defence;
- (28) the requisition of services of persons for maintaining supplies and services essential to the life of the community;
- (29) the provision, construction, maintenance or alteration of buildings, premises or other structures or excavations required for the conduct of military operations or the defence of India and civil defence;

(30) the protection of property by the performance of such fire prevention and other duties as may be allotted to any person;

(31) the securing of any building, premises or other structures from being readily recognisable in the event of a hostile attack by a foreign power;

(32) prohibiting, restricting or otherwise regulating the bringing into, or taking out of, India of goods or articles of any description (including coin, bullion, bank notes, currency notes, securities and foreign exchange), and bringing into any part or place in India of any such goods or articles as aforesaid intended to be taken out of India without being removed from the ship, aircraft or other conveyance in which they are being carried, and applying the provisions of the Sea Customs Act, 1878, and ~~3 of 1878~~ in particular section 19 thereof to such prohibitions, restrictions and regulations;

(33) controlling the possession, use or disposal of, or dealing in, coin, bullion, bank notes, currency notes, securities or foreign exchange;

(34) the control of any road or pathway, waterway, ferry or bridge, river, canal or other source of water-supply;

(35) the requisitioning and acquisition of any movable property; and the principles on which and the manner in which compensation shall be determined and given in respect of such requisitioning or acquisition;

(36) the prevention of any corrupt practice or abuse of authority or other *mala fide* action in relation to the production, storage, purchase, sale, supply or transport of goods for any purpose connected with the defence of India and civil defence, the efficient conduct of military operations or the maintenance of supplies and services essential to the life of the community;

(37) the prevention of hoarding, profiteering, blackmarketing, or adulteration of or any other unfair practices in relation to, any goods procured by or supplied to the Government or notified by or under the rules as essential to the life of the community;

(38) prohibiting or regulating the possession, use or disposal of—

(a) explosives, inflammable substances, corrosive and other dangerous substances or articles, arms and ammunitions of war;

- (b) vessels;
  - (c) wireless telegraphic apparatus;
  - (d) aircraft; and
  - (e) photographic and signalling apparatus and any means of recording information;
- (39) prohibiting or regulating the bringing into, or taking out of, India and the possession, use or transmission of ciphers and other secret means of communicating information;
- (40) prohibiting or regulating the publication of inventions and designs;
- (41) prohibiting or regulating the publication of results of research work having a bearing on efforts relating to defence of India or military operations;
- (42) preventing the disclosure of official secrets;
- (43) prohibiting or regulating meetings, assemblies, fairs and processions;
- (44) preventing or controlling any use of uniforms, whether official or otherwise, flags, official decorations like medals, badges and other insignia and anything similar thereto, where such use is calculated to deceive or to prejudice the public safety, the maintenance of public order, the defence of India and civil defence;
- (45) ensuring the accuracy of any report or declaration legally required of any person;
- (46) preventing the unauthorized change of names;
- (47) preventing anything likely to cause misapprehension in respect of the identity of any official person, official document or official property or in respect of the identity of any person, document or property purporting to be, or resembling, an official person, official document or official property;
- (48) the precautionary measures which the Government or any department thereof or any local authority, members of police forces and fire brigades and members of any other service or authority employed primarily for purposes other than civil defence purposes should be required to take within their respective jurisdictions or with respect to any personnel employed by them;
- (49) the seizure and custody or destruction of injured, unclaimed or dangerous animals;
- (50) the salvage of damaged buildings and property and disposal of the dead;

(51) the evacuation of areas and the removal of property or animals therefrom;

(52) the accommodation in any area of persons evacuated from another area and the regulation of the conduct of evacuated persons accommodated in such area;

(53) the billeting of evacuated persons or persons authorised to exercise functions under this Act;

(54) the instruction of members of the public in civil defence and their equipment for purposes of civil defence;

(55) the entry into, and search of, any place reasonably suspected of being used for any purpose prejudicial to the public safety or interest, to the defence of India and civil defence or to the efficient conduct of military operations, and for the seizure and disposal of anything found there and reasonably suspected of being used for such purpose;

(56) the preparation of any scheme of defence service or any other service connected with the defence of India and requiring any person or class of persons to comply with such scheme;

(57) the eviction of unauthorised occupants from such public premises [as defined in the Public Premises (Eviction of Unauthorised Occupants) Act, 1958] as are, in the opinion of the Central Government, required for the purposes connected with the defence of India and civil defence, the public safety or interest, the efficient conduct of military operations or the maintenance of supplies and services essential to the life of the community.

(3) The rules made under sub-section (1) may further—

(i) provide for the arrest and trial of persons contravening any of the rules or any order issued thereunder;

(ii) provide that any contravention of, or any attempt to contravene, or any abetment of, or any attempt to abet, the contravention of any of the provisions of the rules or any order issued under any such provision, shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both;

(iii) provide for the seizure, detention and forfeiture of any property in respect of which such contravention, attempt or abetment as is referred to in clause (ii) has been committed and for the adjudication of such forfeiture whether by a court or by any other authority;

(iv) confer powers and impose duties—

(a) upon the Central Government or officers and authorities of the Central Government as respects any matter, notwithstanding that the matter is one in respect of which the State Legislature has power to make laws; and

(b) upon any State Government or officers and authorities of any State Government as respects any matter, notwithstanding that the matter is one in respect of which the State Legislature has no power to make laws;

(v) prescribe the duties and powers of public servants and other persons as regards preventing the contravention of, or securing the observance of, the rules or any order made thereunder;

(vi) provide for preventing obstruction and deception of, and disobedience to, any person acting, and interference with any notice issued, in pursuance of the rules or any order made thereunder;

(vii) prohibit attempts by any person to screen from punishment any one, other than the husband or wife of such person, contravening any of the rules or any order made thereunder;

(viii) empower or direct any authority to take such action as may be specified in the rules or as may seem necessary to such authority for the purpose of ensuring the public safety or interest or the defence of India and civil defence;

(ix) provide for charging fees in respect of the grant or issue of a licence, permit, certificate or other document for the purposes of the rules.

4. The Central Government may, by notification in the Official Gazette, direct by general or special order that any persons who not being members of the Armed Forces of the Union are attached to, or employed with, or following those Forces, shall be subject to naval, military or air force law, and thereupon such persons shall be subject to discipline and liable to punishment for offences under the Navy Act, 1957, the Army Act, 1950 and the Air Force Act, 1950; as the case may be, as if they were included in such class of persons subject to any of those Acts as may be specified in the notification or in the absence thereof, by an officer empowered by the Central Government in this behalf.

Special powers to control civilian personnel employed in connection with the Armed Forces of the Union.

62 of 1957,  
46 of 1950.  
45 of 1950.

5. (1) If any person contravenes, with intent to wage war against India or to assist any country committing external aggression against India, any provision of the rules made under section 3 or any Enhanced penalties.

order issued under any such rule, he shall be punishable with death or imprisonment for life, or imprisonment for a term which may extend to ten years and shall also be liable to fine.

(2) If any person,—

(a) contravenes any such provision of, or any such rule or order made under the Aircraft Act, 1934, as may be notified in 22 of 1934. this behalf by the Central Government, or

(b) in any area notified in this behalf by a State Government, contravenes any such provision of, or any such rule made under, the Arms Act, 1959, the Indian Explosives Act, 1884, the Explosive Substances Act, 1908, or the Inflammable Substances Act, 1952, as may be notified in this behalf by the State Government,

he shall, notwithstanding anything contained in any of the aforesaid Acts or rules made thereunder, be punishable with imprisonment for a term which may extend to five years, or, if his intention is, to assist any country committing external aggression against India, or, to wage war against India, with death, imprisonment for life or imprisonment for a term which may extend to ten years and shall in either case also be liable to fine.

(3) For the purposes of this section, any person who attempts to contravene, or abets or attempts to abet, or does any act preparatory to, a contravention of any provision of any law, rule or order shall be deemed to have contravened that provision.

Temporary  
amendments  
to Acts.

6. During the continuance in force of this Act,—

(1) the Indian Official Secrets Act, 1923 shall have effect 19 of 1923. as if—

(a) in sub-section (1) of section 5 thereof, after the words "in his possession or control", the words "any information likely to assist the enemy as defined in the Defence of India Act, 1962, or" had been inserted; and after the words "in such a place," the words "or which relates to or is used in, a protected area as defined in the rules made under the Defence of India Act, 1962, or relates to anything in such area," had been inserted;

(b) for sub-section (4) of section 5 thereof, the following sub-section had been substituted, namely:—

"(4) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to five years, or if such offence is committed with intent to assist any country committing

external aggression against India or to wage war against India, with death or imprisonment for life or imprisonment for a term which may extend to ten years and shall in either case also be liable to fine.”;

(c) after clause (a) of section 12 thereof, the following clause had been inserted, namely:—

“(aa) an offence under section 5 shall be a cognizable and non-bailable offence.”;

**22 of 1934.**

(2) the Aircraft Act, 1934 shall have effect as if—

(a) at the end of clause (r) of sub-section (2) of section 5, the following words had been inserted, namely:—

“including the taking of steps necessary to secure compliance with, or to prevent contravention of, the rules regulating such matters, or, where any such rule has been contravened, to rectify, or to enable proceedings to be taken in respect of, such contravention.”;

(b) in clause (b) of sub-section (1) of section 8, for the words, brackets, letters and figures “clause (h) or clause (i) of sub-section (2) of section 5”, the words, brackets, letters and figures “clause (d), (e), (h), (i), (k) or (l) of sub-section (2) of section 5, or the commission of an offence punishable under section 11,” had been substituted;

(c) in section 11, after the words “in the air”, the words “or in such a manner as to interfere with any of the Armed Forces of the Union or any ships or aircraft” had been inserted;

(d) in section 13, for the words, brackets, letters and figures “clause (i) of sub-section (2) of section 5” the words, brackets, letters and figures “clause (c), (d), (e), (h), (i); (j), or (k) of sub-section (2) of section 5 or punishable under section 11” had been substituted; and

(e) section 14 had been omitted;

**4 of 1936.**

(3) the Payment of Wages Act, 1936, shall have effect as if after clause (i) of sub-section (2) of section 7 thereof, the following clause had been inserted, namely:—

“(ii) deductions made with the written authorisation of—

(i) the employed person; or

(ii) the president or secretary of the registered trade union of which the employed person is a member on such conditions as may be prescribed,

for contribution to the National Defence Fund or to any Defence Savings Scheme approved by the State Government;—

(4) the Motor Vehicles Act, 1939 (in this clause referred to as the “said Act”) shall have effect subject to the following provisions, namely:—

(a) the State Government may, by notification in the Official Gazette, authorise, subject to such conditions, if any, as it may think fit to impose, any person—

(i) also to perform such functions of the State Government under Chapter IV (in this clause referred to as the “said Chapter”) of the said Act, other than the making of rules as may be specified in the notification; and

(ii) to perform to the exclusion of the State Transport Authority or Regional Transport Authority, as the case may be, such functions of the State Transport Authority or any Regional Transport Authority under the said Chapter as may be specified in the notification;

and the expression “proper authority” in this clause shall, in relation to the performance of any such function as aforesaid, be construed in accordance with the provisions of such notification, if any, relating to that function;

(b) notwithstanding anything to the contrary in section 58 or section 62 of the said Act, the proper authority may grant a permit or a temporary permit under the said Chapter to be effective for any specified period or for the period of operation of this Act, whichever is less;

(c) the State Government may, by general or special order, in writing, provide that the proper authority,—

(i) in deciding to grant or refuse to grant a permit under the said Chapter, shall not be bound to take into consideration representations made by any persons other than the applicant for the permit or to follow the procedure laid down in section 57 of the said Act, and may take into consideration an application for a stage carriage permit or a public carrier’s permit which has not complied with the provisions of sub-section (2) of that section.

(ii) in fixing the maximum and minimum fares or freights for stage carriages and public carriers, shall not be bound to give the representatives of the interests affected an opportunity of being heard or to follow the procedure laid down in section 43 of the said Act, or where such action is taken for the purpose of preventing the charge of excess fares or freights, to have regard to any of the considerations set forth in clauses (a) to (d) of sub-section (1) of that section;

(d) without prejudice to the provisions of section 60 of the said Act, the proper authority may, if in its opinion the public interest so requires, cancel, or modify the conditions of, or suspend for such period as it thinks fit, any permit or counter-signature under the said Chapter which is valid in its jurisdiction;

(e) the Central Government or the State Government may, by general or special order in writing exempt from all or any of the provisions of the said Chapter any transport vehicle used or required for use in connection with any work or purpose declared by the Central Government or, as the case may be, the State Government in the order to be a work or purpose connected with the defence of India, the conduct of military operations or civil defence;

(f) if the State Government by general or special order in writing so directs, the provisions of sub-section (2) of section 38 of the said Act shall have effect in relation to any controlled motor vehicles specified in the order as if the words "not being in any case more than two years or less than six months" had been omitted.

*Explanation.*—In this clause "controlled motor vehicle" means any motor vehicle declared by the Government to be a controlled motor vehicle by order made in this behalf.

### CHAPTER III CIVIL DEFENCE SERVICES

7. (1) The State Government may constitute for any area within the State a body of persons to be called the Civil Defence Service and may appoint a person (hereinafter called the Director) to command such body.

Constitution of Civil Defence Service.

(2) Subject to any orders which the Central Government may make in this behalf, any member of a Civil Defence Service of any State may at any time be required to discharge functions in relation

to civil defence in any other State and shall while so discharging such functions be deemed to be a member of a Civil Defence Service of that other State and be vested with the powers, functions and privileges and be subject to the liabilities of a member of a Civil Defence Service of that other State.

**Appointment of members and officers.**

8. (1) Any authority authorised in this behalf by the State Government may appoint as members of a Civil Defence Service so many persons who are fit and willing to serve as such as it is authorised by the State Government to appoint, and the Director may appoint any such member to any office or command in the Service.

(2) Every person so appointed to be a member of a Civil Defence Service shall be given a certificate of membership in such form as may be prescribed.

**Dismissal of members of Civil Defence Service.**

9. The Director or any other authority authorised in this behalf by the State Government may, by order in writing, dismiss summarily from a Civil Defence Service any member thereof if, in the opinion of the Director or such other authority, he fails to discharge satisfactorily, or is guilty of misconduct in the discharge of, his duties as such member, or his continued presence in the Service is otherwise undesirable.

**Functions of members of Civil Defence Services.**

10. (1) The members of a Civil Defence Service shall perform such functions in relation to the carrying out of measures for civil defence as may be assigned to them by rules made under this Act or by any other law for the time being in force.

(2) The Director or any person authorised in this behalf by the Director or by the State Government may by order at any time call out a member of a Civil Defence Service for training or to discharge any such functions as aforesaid.

**Penalty.**

11. If any member of a Civil Defence Service on being called out by an order under sub-section (2) of section 10 neglects or refuses without sufficient excuse to obey such order or to discharge his functions as a member of the Civil Defence Service or to obey any lawful order or direction given to him for the performance of his duties he shall, on conviction by a competent court, be punishable with fine which may extend to five hundred rupees.

**Power to make rules.**

12. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may—

(a) prescribe the duties of members of Civil Defence Services and regulate the manner in which they may be called out for service;

(b) regulate the organisation, appointment, conditions of service, discipline, accoutrement, and clothing of members of any or all of the Civil Defence Services;

(c) prescribe the form of certificates of membership of any or all of the Civil Defence Services;

(d) provide that a contravention of, or an attempt to contravene, and any abetment of or attempt to abet the contravention of, any of the provisions of the rules or of any order issued under any such provision shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both;

(e) provide for the arrest and trial of persons contravening, or reasonably suspected of contravening, any of the provisions of the rules or of any order issued under any such provision;

(f) provide for the seizure, detention and forfeiture of any property in respect of which such contravention, attempt or abetment as is referred to in clause (d) has been committed;

(g) prescribe the duties and powers of public servants and other persons as regards preventing the contravention of, or securing the observance of, the rules or of any order issued thereunder;

(h) provide for preventing the obstruction and deception of, and disobedience to, any person acting, and interference with any notice issued, in pursuance of the rules or of any order issued thereunder;

(i) prohibit attempts to screen from punishment any person contravening any of the rules.

#### CHAPTER IV SPECIAL TRIBUNALS

**13. (1)** The State Government may, for the whole or any part of the State, constitute one or more Special Tribunals which or each of which shall consist of three members appointed by that Government.

Constitution of  
Special  
Tribunals.

(2) No person shall be appointed as a member of a Special Tribunal unless he—

(a) is qualified under clause (2) of article 217 of the Constitution for appointment as a Judge of a High Court; or

(b) has for a total period of not less than three years exercised, whether continuously or not, the powers under the Code of Criminal Procedure, 1898 (hereafter in this Chapter <sup>5 of 1898.</sup> referred to as the Code) of any one or more of the following, namely:—

(i) Sessions Judge, Additional Sessions Judge, Chief Presidency Magistrate, Additional Chief Presidency Magistrate,

(ii) District Magistrate, Additional District Magistrate.

(3) At least one member of a Special Tribunal shall be qualified for appointment thereto under clause (a) of sub-section (2), and where only one member is so qualified under that clause, at least one other member shall be qualified for appointment under clause (b) of that sub-section by virtue of having exercised powers exclusive of those specified in sub-clause (ii) of the said clause (b).

**14.** During the period during which the Proclamation of Emergency is in operation, the State Government may, by general or special order, direct that a Special Tribunal shall try any offence—

(a) under any rule made under section 3, or

(b) punishable with death, imprisonment for life or imprisonment for a term which may extend to ten years under section 5 of this Act or under sub-section (4) of section 5 of the Indian Official Secrets Act, 1923, as amended by section 6 of this Act, <sup>19 of 192</sup>

triable by any court having jurisdiction within the local limits of the jurisdiction of the Special Tribunal and may in any such order direct the transfer to the Special Tribunal of any particular case from any other Special Tribunal or any other criminal court not being a High Court.

**15.** (1) A Special Tribunal may take cognizance of offences without the accused being committed to it for trial.

(2) Save in cases of trials of offences punishable with death or imprisonment for life or imprisonment for a term which may extend to five years or more, it shall not be necessary in any trial for a Special Tribunal to take down the evidence at length in writing, but the Special Tribunal shall cause a memorandum of the substance of what each witness deposes, to be taken down, and such memorandum shall be signed by a member of the Special Tribunal and shall form part of the record.

(3) A Special Tribunal shall not be bound to adjourn any trial for any purpose unless such adjournment is, in its opinion, necessary in the interests of justice.

(4) A Special Tribunal shall not, merely by reason of a change in its members, be bound to recall and to re-hear any witness who has given evidence, and it may act on the evidence already recorded by or produced before it.

(5) After an accused person has once appeared before it, a Special Tribunal may try him in his absence if, in its opinion, his absence has been brought about by the accused himself for the purpose of impeding the course of justice, or if the behaviour of the accused in court has been such as, in the opinion of the Special Tribunal, to impede the course of justice.

(6) In the event of any difference of opinion among the members of a Special Tribunal, the opinion of the majority shall prevail.

(7) The State Government may, by notification in the Official Gazette, make rules providing for—

(i) the times and places at which Special Tribunals may sit; and

(ii) the procedure to be adopted in the event of any member of a Special Tribunal being prevented from attending throughout the trial of any accused person.

(8) A Special Tribunal shall, in all matters in respect to which no procedure has been prescribed by this Act or by rules made thereunder, follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates.

**16.** In addition, and without prejudice, to any powers which a Special Tribunal may possess by virtue of any law for the time being in force to order the exclusion of the public from any proceedings, if at any stage in the course of a trial of any person before a Special Tribunal, application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the trial would be prejudicial to the safety of the State, that all or any portion of the public shall be excluded during any part of the hearing, the Special Tribunal may make an order to that effect, but the passing of the sentence shall in any case take place in public.

Exclusion  
of public  
from pro-  
ceedings  
of Special  
Tribunals.

**17.** A Special Tribunal shall have all the powers conferred by the Code on a Court of Session exercising original jurisdiction.

Power of  
Special  
Tribunals.

**18. (1)** A Special Tribunal may pass any sentence authorised by law.

Sentences  
of Special  
Tribunals.

## (2) A person sentenced by a Special Tribunal—

(a) to death or imprisonment for life, or

(b) to imprisonment for a term of five years or more,  
under this Act or the rules made thereunder or under sub-section  
(4) of section 5 of the Indian Official Secrets Act, 1923, as amend-  
ed by section 6 of this Act,

19 of 1923

shall have a right of appeal to the High Court within whose jurisdiction the sentence has been passed, but save as aforesaid and notwithstanding the provisions of the Code, or of any other law for the time being in force, or of anything having the force of law by whatsoever authority made or done, there shall be no appeal from any order or sentence of a Special Tribunal, and no court shall have authority to revise such order or sentence, or to transfer any case from a Special Tribunal, or to make any order under section 491 of the Code, or have any jurisdiction of any kind in respect of any proceedings of a Special Tribunal.

(3) The powers conferred upon the appropriate Government by Chapter XXIX of the Code shall apply in respect of a person sentenced by a Special Tribunal.

## CHAPTER V

## EMPLOYMENT OF TECHNICAL PERSONNEL IN THE NATIONAL SERVICE

## Definitions.

19. In this Chapter, unless the context otherwise requires,—

(a) "employment in the national service" means employment in a notified establishment in pursuance of an order passed under section 23;

(b) "employer" means any person who employs technical personnel to do any work in an establishment and includes any person entrusted with the supervision and control of technical personnel in such an establishment;

(c) "establishment" means—

(i) any office, or

(ii) any place where any industry, trade, business or occupation is carried on; and includes any technical institution or training centre established, selected or approved by the Central Government;

(d) "National Service Tribunal" means a Tribunal constituted under section 21;

(e) "notified establishment" means any Government establishment and any establishment declared by notification under sub-section (1) of section 22 to be engaged in work of national importance;

(f) "notified occupation" means any occupation which the Central Government may, by rules made under this Chapter, specify as a notified occupation for the purposes of this Chapter;

(g) "technical personnel" means all persons who possess knowledge of or skill in one or more of the notified occupations, whether or not they are employed in any establishment, and includes such persons or class of persons undergoing training in any of those occupations in any establishment as may be declared by the Central Government by notification in the Official Gazette to be technical personnel for the purposes of this Chapter.

**20.** All technical personnel, being citizens of India and not being members of the Armed Forces of the Union or members of any Reserve of any such Force who are liable, under the terms of their service in such Reserve, to be called up for service at any time and not only on partial or general mobilisation, shall be liable under this Chapter to undertake employment in the national service. Liability for employment in national service.

**21.** (1) The Central Government shall constitute, for such areas and in such places as it thinks fit, National Service Tribunals to exercise the functions assigned to such tribunals by or under this Chapter. National Service Tribunals.

(2) The composition, powers and procedure of National Service Tribunals shall be such as may be prescribed.

**22.** (1) The Central Government may, by notification in the Official Gazette, declare any establishment, which is engaged in work which, in the opinion of the Central Government, is likely to assist the defence of India and civil defence, the efficient conduct of military operations, or the maintenance or increase of supplies and services essential to the life of the community, to be an establishment engaged in work of national importance and thereupon such establishment shall be a notified establishment and while making such declaration, the Central Government may require that establishment to make such provisions as may be specified in the notification in regard to the terms of service and conditions of work of its employees. Notified establishments.

(2) Every notified establishment shall be eligible to apply to a National Service Tribunal or to the Central Government for technical personnel and having so applied, shall take into its employment such technical personnel within such period and on such terms and conditions as may be prescribed.

**23.** (1) Subject to any rules made in this behalf under this Chapter, the Central Government may require a National Service Tribunal to report what technical personnel, whether employed in an Employment of technical personnel

In the  
national  
service.

establishment or not, is available within its jurisdiction for employment in the national service and may by order in writing,—

- (a) require the employer in any establishment by which such technical personnel is employed to release such personnel as may be specified in the order, for employment in the national service;
- (b) direct any technical personnel to undertake such employment in the national service as may be specified in the order;
- (c) direct that any technical personnel engaged in any establishment under conditions not amounting to employment in the national service shall, for the purposes of sub-section (8), be deemed to have been taken into employment in the national service; and
- (d) require any notified establishment, notwithstanding that it has not made any application under section 22, to take into its employment such technical personnel within such period as may be specified in the order.

(2) Notwithstanding anything in sub-section (1), a National Service Tribunal may—

- (a) exercise the powers conferred on the Central Government by clauses (a) and (b) of sub-section (1);
- (b) require by order any employer to give training in his establishment to persons for qualifying them as technical personnel;
- (c) direct by order technical personnel to present themselves at such place and time as may be specified in the order for interview or inquiry, and if so required, for submission to a test of their technical skill.

(3) Any order made by the Central Government under sub-section (1) and by a National Service Tribunal under sub-section (2) shall be complied with within such period or on such date as may be specified in this behalf in the order.

(4) The Central Government or, as the case may be, a National Service Tribunal, may, by order in writing, transfer technical personnel from one form or place of employment in the national service to another; and the employer and the personnel concerned shall comply with such order.

(5) No person included in the definition of technical personnel, who has been directed to undertake employment in the national service or transferred from one form or place of employment to

another under the foregoing provisions, shall be discharged from or leave his employment in such service unless the employer or person concerned has previously obtained the permission of the Central Government or, as the case may be, of the National Service Tribunal.

(6) Any person included in the definition of technical personnel who is required to undertake employment in the national service or transferred from one form or place of employment to another under the foregoing provisions of this section, may be required by the Central Government, or, as the case may be, the National Service Tribunal concerned, to submit himself to be examined by such medical authority as may be prescribed.

(7) An appeal shall lie to the Central Government against any order passed by a National Service Tribunal under this section and the decision of the Central Government shall be final.

(8) The terms of service of technical personnel taken into employment in the national service shall be such as may be prescribed:

Provided that any rights which such technical personnel may have under the provident or superannuation fund or other scheme relating to gratuity, bonus or other benefit for the advantage of employees maintained by the establishment from which they are released shall be preserved.

**24.** (1) Every person who was employed in an establishment immediately before his employment in the national service and whose employment in the national service has not been terminated by dismissal for serious misconduct shall, on his release from such employment in the national service, be entitled to be reinstated in his former employment, in accordance with such conditions as may be prescribed: Reinstate-  
ment.

Provided that in determining such conditions regard shall be had to the additional skill and experience acquired by him in the course of his employment in the national service.

(2) The Central Government may by rules made in this behalf provide for the appointment of Technical Personnel (Reinstatement) Tribunals to deal with such matters in relation to reinstatement of persons released from employment in the national service as may be prescribed.

**25.** (1) Subject to any rules made in this behalf, a National Service Tribunal may require any establishment (including a notified establishment) to post before a specified date and to keep posted, on its premises notices intimating that— Relin-  
quish-  
ment of  
employ-  
ment by  
dismissal  
of, and  
engage-  
ment by

(a) no person included within the definition of technical personnel who is employed in the establishment shall at any time

**Establish-  
ment of,  
technical  
personnel.**

after the posting of the notice, leave his employment without the previous permission in writing of the National Service Tribunal;

(b) if the National Service Tribunal refuses such permission, that tribunal may lay down, subject to the prescribed conditions, the terms of service on which the employer shall continue to retain him in employment;

(c) if any such person leaves his employment without the previous permission in writing of the Tribunal as aforesaid he may be directed by the Tribunal to return to his employment.

(2) After notices referred to in sub-section (1) have been posted on the premises of any establishment (including a notified establishment), no employer in the establishment shall engage, discharge or dismiss any person included in the definition of technical personnel except in accordance with rules made in this behalf.

**Penalties  
and pro-  
cedure.**

26. (1) Whoever contravenes any order of the Central Government or of a National Service Tribunal made under section 23 or wilfully fails to comply with any summons, requirement, direction or order issued or made by the Central Government or by a National Service Tribunal under any other provision of this Chapter shall be punishable with imprisonment for a term not exceeding six months, or with fine not exceeding one thousand rupees, or with both.

(2) No court shall take cognizance of any offence punishable under sub-section (1) except with the previous sanction in writing,—

(a) in the case of contravention of any order or any wilful failure to comply with any summons, requirement or direction of the Central Government, of the Central Government;

(b) in the case of contravention of any order or any wilful failure to comply with any summons, requirement or direction of a National Service Tribunal, of the National Service Tribunal.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence punishable under sub-section (1) shall be cognizable.

(4) No court inferior to a Presidency Magistrate or a Magistrate of the First Class shall try any offence punishable under sub-section (1).

**Service  
of sum-  
mons,  
notices,  
orders, etc.**

**Power to  
make  
rules.**

27. Any summons, notice, requirement, direction or order issued, made or given to any person under this Chapter may be served by being sent by registered post addressed to that person at his last known residence.

28. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Chapter.

(2) Without prejudice to the generality of the foregoing power, such rules may prescribe—

(a) the occupations which shall be notified occupations for the purposes of this Chapter;

(b) the composition, powers and procedure of National Service Tribunals;

(c) the technical personnel, which may be taken into the employment of any notified establishment under sub-section (2) of section 22 and the period within which and the terms and conditions on which such personnel shall be so taken;

(d) the medical authority before whom any person may be required to submit himself for examination under sub-section (6) of section 23;

(e) the terms of service of technical personnel taken into employment in the national service;

(f) the conditions in accordance with which persons released from employment in the national service may be reinstated in their former employment;

(g) the appointment of Technical Personnel (Reinstatement) Tribunals and the matters in relation to reinstatement which such Tribunals may be required to deal with;

(h) the provisions relating to engagement, discharge or dismissal of persons by any employer in any establishment on the premises of which notices have been posted under sub-section (1) of section 25;

(i) any other matter which may be prescribed or which is to be provided for by rules.

(3) Any rule made under this Chapter may provide that a contravention of the rule shall be punishable with imprisonment for a term not exceeding six months, or with fine not exceeding one thousand rupees, or with both.

## CHAPTER VI

### REQUISITIONING AND ACQUISITION OF IMMOVABLE PROPERTY

**29.** (1) Notwithstanding anything contained in any other law for the time being in force, if in the opinion of the Central Government or the State Government it is necessary or expedient so to do for securing the defence of India, civil defence, public safety, maintenance of public order or efficient conduct of military operations, or for maintaining supplies and services essential to the life of the community, that Government may by order in writing requi-

Requisitioning of  
immovable  
property.

sition any immovable property and may make such further orders as appear to that Government to be necessary or expedient in connection with the requisitioning:

Provided that no property or part thereof which is exclusively used by the public for religious worship shall be requisitioned.

(2) The requisition shall be effected by an order in writing addressed to the person deemed by the Central Government or the State Government, as the case may be, to be the owner or person in possession of the property, and such order shall be served in the prescribed manner on the person to whom it is addressed.

(3) Whenever any property is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such property is required for any of the purposes mentioned in that sub-section.

Payment  
of com-  
pen-sa-  
tion.

30. Whenever in pursuance of section 29 the Central Government or the State Government, as the case may be, requisitions any immovable property, there shall be paid to the persons interested compensation the amount of which shall be determined by taking into consideration the following, namely:—

(i) the rent payable in respect of the property or if no rent is payable, the rent payable in respect of similar property in the locality;

(ii) if in consequence of the requisition of the property the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change;

(iii) such sum or sums, if any, as may be found necessary to compensate the person interested for damage caused to the property on entry after requisition or during the period of requisition, other than normal wear and tear:

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the Central Government or the State Government, as the case may be, for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the Central Government or the State Government, as the case may be may determine:

Provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred to an arbitrator

appointed in this behalf by the Central Government or the State Government, as the case may be, for determination, and shall be determined in accordance with the decision of such arbitrator.

*Explanation.*—In this section and in section 37, the expression “person interested” in relation to any property includes all persons claiming or entitled to claim an interest in the compensation payable on account of the requisitioning or acquisition of that property under this Act.

**31.** The Central Government or the State Government, as the case may be, may, with a view to requisitioning any property under section 29 or determining the compensation payable under section 30, by order—

(a) require any person to furnish to the authority mentioned therein such information in his possession relating to any property as may be specified;

(b) direct that the owner, occupier or the person in possession of the property shall not, without the permission of Government, dispose of it or where it is a building, structurally alter it till the expiry of such period as may be specified in the order.

**32.** Any person authorised in this behalf by the Central Government or the State Government, as the case may be, may enter into any immovable property and inspect such property for the purpose of determining whether, and if so in what manner, an order under section 29 should be made in relation to such property or with a view to securing compliance with any order made under that section.

**33. (1)** Any person remaining in possession of any requisitioned property in contravention of any order made under section 29 may be summarily evicted from the property by any officer empowered in this behalf by the Central Government or the State Government, as the case may be.

(2) Any officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdraw, remove or open any lock or bolt or break open any door of any building or do any other act necessary for effecting such eviction.

**34.** If any person contravenes any order made under section 29 or section 31, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

**35. (1)** Where any property requisitioned under section 29 is to be released from such requisition, the Government by which or under whose authority the property was requisitioned or any person

Power to obtain information and give direction.

Power of entry into, and inspection of property, etc.

Eviction from requisitioned property.

Penalty for contravention of any order regarding requisitioning.

Release from requisition.

generally or specially authorised by it in this behalf may, after such inquiry, if any, as it or he may in any case, consider necessary to make or cause to be made, specify by order in writing the person to whom possession of the property shall be given and such possession shall, as far as practicable, be given to the person who appears to the Government or, as the case may be, the person authorised as aforesaid, to be entitled to the possession of the property at the time such order is made.

(2) The delivery of possession of the property to the person specified in the order under sub-section (1) shall be a full discharge of the Government from all liabilities in respect of the property, but shall not prejudice [by] any rights in respect of the property which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is delivered.

**Acquisition  
of  
requisi-  
tioned  
property.**

36. (1) Any immovable property which has been requisitioned under section 29 may, in the manner hereinafter provided, be acquired in the circumstances and by the Government specified below, namely:—

(a) where any works have, during the period of requisition, been constructed on, in or over the property wholly or partly at the expense of any Government, the property may be acquired by that Government if it decides that the value of or the right to use, such works shall, by means of the acquisition of the property, be preserved or secured for the purposes of any Government, or

(b) where the cost to any Government of restoring the property to its condition at the time of its requisition as aforesaid would, in the determination of that Government, be excessive having regard to the value of the property at that time, the property may be acquired by that Government.

(2) When any Government as aforesaid decides to acquire any immovable property, it shall serve on the owner thereof or where the owner is not readily traceable or the ownership is in dispute, by publishing in the Official Gazette, a notice stating that the Government has decided to acquire it in pursuance of this section.

(3) Where a notice of acquisition is served on the owner of the property or is published in the Official Gazette under sub-section (2), then, at the beginning of the day on which the notice is so served or published, the property shall vest in the Government free from any mortgage, pledge, lien or other similar encumbrances and the period of requisition thereof shall come to an end.

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[ ] To be omitted.

(4) Any decision or determination of a Government under sub-section (1) shall be final; and shall not be called in question in any court.

(5) For the purposes of this section, "works" includes every description of buildings, structures and improvements of the property.

37. (1) The compensation payable for the acquisition of any property under section 36 shall be—

(a) the price which the requisitioned property would have fetched in the open market if it had remained in the same condition as it was at the time of requisitioning and been sold on the date of acquisition, or

(b) twice the price which the requisitioned property would have fetched in the open market if it had been sold on the date of the requisition,

whichever is less.

(2) Where any person interested is aggrieved by the amount of compensation determined in accordance with sub-section (1), he may make an application within the prescribed time to the Central Government or the State Government, as the case may be, for referring the matter to an arbitrator appointed in this behalf by the Central Government or the State Government, and the amount of compensation to be paid shall be such as may be determined by the arbitrator in accordance with sub-section (1).

(3) The provisions of section 31 and section 32 shall apply in relation to the acquisition of any property or the determination of compensation for such acquisition as they apply in relation to the requisitioning of any property or the determination of compensation for such requisitioning.

(4) Where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred to an arbitrator appointed in this behalf by the Central Government or the State Government, as the case may be, for determination, and his decision thereon shall be final.

38. (1) The Central Government or the State Government, as the case may be, may, by notification in the Official Gazette, make rules for carrying out the purposes of this Chapter.

Compensation for  
acquisition of  
requisitioned  
property.

Power to  
make  
rules.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may prescribe—

- (a) the procedure to be followed in arbitration proceedings under this Chapter;
- (b) the period within which the owner of any property or any other person interested in the amount of compensation may apply to the Government concerned for referring the matter to an arbitrator;
- (c) the principles to be followed in apportioning the costs of proceedings before the arbitrator;
- (d) the method of payment of compensation;
- (e) the manner of service of notices and orders;
- (f) any other matter which has to be, or may be, prescribed.

**Certain properties requisitioned under previous law to be deemed to be requisitioned under this Chapter.**

39. Any property referred to in sub-section (2) of section 24 of the Requisitioning and Acquisition of Immovable Property Act, 1952, 30 of 1952, which continued, immediately before the commencement of that Act, to be subject to requisition under the Requisitioned Land (Continuance of Powers) Act, 1947, and has not, immediately before 17 of 1947, the commencement of this Act, been released from requisitioning shall, notwithstanding anything contained in any other law for the time being in force or in any judgment, decree or order of any court, be deemed to be the property requisitioned under sub-section (1) of section 29 if such property is, in the opinion of the Central Government, now required for any of the purposes specified in that sub-section:

Provided that—

- (a) all agreements or awards for the payment of compensation in respect of any such property for any period of requisition before the commencement of this Act and in force immediately before such commencement, shall continue to be in force and shall apply to the payment of compensation in respect of that property for any period after such commencement;
- (b) anything done or any action taken (including any orders, notifications or rules made or issued) under the Requisitioning and Acquisition of Immovable Property Act, 1952, or 30 of 1952, under the Requisitioned Land (Continuance of Powers) Act, 1947, and continued under the first-mentioned Act, shall, in so far as it is not inconsistent with the provisions of this Chapter or any rules or orders made thereunder, be deemed to have been done or taken under this Chapter.

## CHAPTER VII

## SUPPLEMENTAL

40. (1) The Central Government may, by order, direct that any power or duty which by this Act or by any rule made under this Act is conferred or imposed upon the Central Government shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged also—

- (a) by any officer or authority subordinate to the Central Government, or
- (b) whether or not the power or duty relates to a matter with respect to which a State Legislature has power to make laws, by any State Government or by any officer or authority subordinate to such Government, or
- (c) by any other authority.

(2) The State Government may, by order, direct that any power or duty which by this Act or by any rule made under this Act is conferred or imposed on the State Government or which, being by this Act or any such rule conferred or imposed on the Central Government, has been directed under sub-section (1) to be exercised or discharged by the State Government, shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by any officer or authority not being (except in the case of a Union territory) an officer or authority subordinate to the Central Government.

41. 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 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.

42. (1) Except as may be provided in this Act or in any rule made thereunder or in any order made under any such rule by the Central Government or the State Government or by an officer not below the rank of Collector empowered under sub-section (1) or sub-section (2) of section 40 to make such order, the ordinary criminal and civil courts shall continue to exercise jurisdiction.

(2) For the removal of doubts, it is hereby declared that any provision in any such rule or order as aforesaid to the effect that the decision of any authority not being a court shall be final or conclusive shall be a sufficient excepting provision within the meaning of sub-section (1).

**Effect of Act and rules, etc., inconsistent with other enactments.**

**Ordinary avocations of life to be interfered with as little as possible.**

**Savings as to orders.**

**Chapter III not to apply to measures taken for the protection of Armed Forces.**

**Protection of action taken under the Act.**

**Repeal and saving.**

43. The provisions of this Act or any rule made thereunder or any order made under any such rule shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

44. Any authority or person acting in pursuance of this Act shall interfere with the ordinary avocations of life and the enjoyment of property as little as may be consonant with the purpose of ensuring the public safety and interest and the defence of India and civil defence.

45. (1) No order made in exercise of any power conferred by or under this Act shall be called in question in any court.

(2) Where an order purports to have been made and signed by any authority in exercise of any power conferred by or under this Act, a court shall, within the meaning of the Indian Evidence Act, 1872, presume that such order was so made by that authority.

1 of 1872

46. Unless otherwise expressly provided in any rules or orders made under Chapter III, nothing contained in that Chapter or any such rules or orders shall apply to the Armed Forces of the Union or to any measures taken by any of the authorities in control of the Armed Forces for the purpose of securing the defence or safety of such forces or for the protection of any naval, military or air force installations or stores.

47. (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 in pursuance of this Act or any rules made thereunder or any orders issued under any such rule.

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

48. (1) The Defence of India Ordinance, 1962, and the Defence of India (Amendment) Ordinance, 1962, are hereby repealed.

6 of 1962

(2) Notwithstanding such repeal, any rules made, anything done or any action taken under the Defence of India Ordinance, 1962, as amended by the Defence of India (Amendment) Ordinance, 1962 shall be deemed to have been made, done or taken under this Act as if this Act had commenced on the 26th October, 1962.

49. All property, immovable or movable, purporting to have been requisitioned under the Defence of India Ordinance, 1962, on or after the 26th October, 1962 and before the coming into force of the relevant provisions of that Ordinance or the Defence of India Rules, 1962 made thereunder, shall be deemed to have been validly requisitioned, as if that Ordinance and those rules had been in force on and from the 26th October, 1962 and accordingly, the provisions of this Act and those rules shall apply to and in relation to such requisition.

# THE CUSTOMS ACT, 1962

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*Clearance of imported goods*

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*Clearance of export goods*

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**THE SCHEDULE**

# THE CUSTOMS ACT, 1962

No. 52 OF 1962

[13th December, 1962]

An Act to consolidate and amend the law relating to customs.

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

## CHAPTER I

### PRELIMINARY

1. (1) This Act may be called the Customs Act, 1962.  
Short title, extent and commencement.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint.

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

- (1) "aircraft" has the same meaning as in the Aircraft Act, 22 of 1934; 1934;
- (2) "assessment" includes provisional assessment, re-assessment and any order of assessment in which the duty assessed is nil;
- (3) "baggage" includes unaccompanied baggage but does not include motor vehicles;
- (4) "bill of entry" means a bill of entry referred to in section 46;
- (5) "bill of export" means a bill of export referred to in section 50;
- (6) "Board" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924;
- (7) "coastal goods" means goods, other than imported goods, transported in a vessel from one port in India to another;
- (8) "Collector of Customs" includes an Additional Collector of Customs;

<sup>1</sup> 1st February, 1963; vide Notification No. G.S.R. 155, dated 23-1-1963, Gazette of India, Extraordinary, Pt. II, Sec. 3(i), p. 73.

(9) "conveyance" includes a vessel, an aircraft and a vehicle;

(10) "customs airport" means any airport appointed under clause (a) of section 7 to be a customs airport;

(11) "customs area" means the area of a customs station and includes any area in which imported goods or export goods are ordinarily kept before clearance by Customs Authorities;

(12) "customs port" means any port appointed under clause (a) of section 7 to be a customs port;

(13) "customs station" means any customs port, customs airport or land customs station;

(14) "dutiable goods" means any goods which are chargeable to duty and on which duty has not been paid;

(15) "duty" means a duty of customs leviable under this Act;

(16) "entry" in relation to goods means an entry made in a bill of entry, shipping bill or bill of export and includes in the case of goods imported or to be exported by post, the entry referred to in section 82 or the entry made under the regulations made under section 84;

(17) "examination", in relation to any goods, includes measurement and weighment thereof;

(18) "export", with its grammatical variations and cognate expressions, means taking out of India to a place outside India;

(19) "export goods" means any goods which are to be taken out of India to a place outside India;

(20) "exporter", in relation to any goods at any time between their entry for export and the time when they are exported, includes any owner or any person holding himself out to be the exporter;

(21) "foreign-going vessel or aircraft" means any vessel or aircraft for the time being engaged in the carriage of goods or passengers between any port or airport in India and any port or airport outside India, whether touching any intermediate port or airport in India or not, and includes—

(i) any naval vessel of a foreign Government taking part in any naval exercises;

(ii) any vessel engaged in fishing or any other operations outside the territorial waters of India;

(iii) any vessel or aircraft proceeding to a place outside India for any purpose whatsoever;

(22) "goods" includes—

- (a) vessels, aircrafts and vehicles;
- (b) stores;
- (c) baggage;
- (d) currency and negotiable instruments; and
- (e) any other kind of moveable property;

(23) "import", with its grammatical variations and cognate expressions, means bringing into India from a place outside India;

(24) "import manifest" or "import report" means the manifest or report required to be delivered under section 30;

(25) "imported goods" means any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption;

(26) "Importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner or any person holding himself out to be the importer;

(27) "India" includes the territorial waters of India;

(28) "Indian customs waters" means the waters extending into the sea to a distance of twelve nautical miles measured from the appropriate base line on the coast of India and includes any bay, gulf, harbour, creek or tidal river;

(29) "land customs station" means any place appointed under clause (b) of section 7 to be a land customs station;

(30) "market price", in relation to any goods, means the wholesale price of the goods in the ordinary course of trade in India;

(31) "person-in-charge" means,—

- (a) in relation to a vessel, the master of the vessel;
- (b) in relation to an aircraft, the commander or pilot-in-charge of the aircraft;
- (c) in relation to a railway train, the conductor, guard or other person having the chief direction of the train;
- (d) in relation to any other conveyance, the driver or other person-in-charge of the conveyance;

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

(33) "prohibited goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to

which the goods are permitted to be imported or exported have been complied with;

(34) "proper officer", in relation to any functions to be performed under this Act, means the officer of customs who is assigned those functions by the Board or the Collector of Customs;

(35) "regulations" means the regulations made by the Board under any provision of this Act;

(36) "rules" means the rules made by the Central Government under any provision of this Act;

(37) "shipping bill" means a shipping bill referred to in section 50;

(38) "stores" means goods for use in a vessel or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting;

(39) "smuggling", in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113;

(40) "tariff value", in relation to any goods, means the tariff value fixed in respect thereof under sub-section (2) of section 14;

(41) "value", in relation to any goods, means the value thereof determined in accordance with the provisions of sub-section (1) of section 14;

(42) "vehicle" means conveyance of any kind used on land and includes a railway vehicle;

(43) "warehouse" means a public warehouse appointed under section 57 or a private warehouse licensed under section 58;

(44) "warehoused goods" means goods deposited in a warehouse;

(45) "warehousing station" means a place declared as a warehousing station under section 9.

## **CHAPTER II**

### **OFFICERS OF CUSTOMS**

#### **Classes of officers of customs.**

3. There shall be the following classes of officers of customs, namely:—

- (a) Collectors of Customs;
- (b) Appellate Collectors of Customs;
- (c) Deputy Collectors of Customs;
- (d) Assistant Collectors of Customs; and
- (e) such other class of officers of customs as may be appointed for the purposes of this Act.

4. (1) The Central Government may appoint such persons as it thinks fit to be officers of customs.
- (2) Without prejudice to the provisions of sub-section (1), the Central Government may authorise the Board, a Collector of Customs or a Deputy or Assistant Collector of Customs to appoint officers of customs below the rank of Assistant Collector of Customs.
- (3) Subject to such conditions and limitations as the Board may impose, an officer of customs may exercise the powers and discharge the duties conferred or imposed on him under this Act.
- (4) An officer of customs may exercise the powers and discharge the duties conferred or imposed under this Act on any other officer of customs who is subordinate to him.
- (5) Notwithstanding anything contained in this section, an Appellate Collector of Customs shall not exercise the powers and discharge the duties conferred or imposed on an officer of customs other than those specified in Chapter XV and section 108.
6. The Central Government may, by notification in the Official Gazette, entrust either conditionally or unconditionally to any officer of the Central or the State Government or a local authority any functions of the Board or any officer of customs under this Act.

### CHAPTER III

#### APPOINTMENT OF CUSTOMS PORTS, AIRPORTS, WAREHOUSING STATIONS, ETC.

7. The Central Government may, by notification in the Official Gazette, appoint—
- (a) the ports and airports which alone shall be customs ports or customs airports for the unloading of imported goods and the loading of export goods or any class of such goods;
  - (b) the places which alone shall be land customs stations for the clearance of goods imported or to be exported by land or inland water or any class of such goods;
  - (c) the routes by which alone goods or any class of goods specified in the notification may pass by land or inland water into or out of India, or to or from any land customs station from or to any land frontier;
  - (d) the ports which alone shall be coastal ports for the carrying on of trade in coastal goods or any class of such goods with all or any specified ports in India.
8. The Collector of Customs may—
- (a) approve proper places in any customs port or customs airport or coastal port for the unloading and loading of goods or for any class of goods;
  - (b) specify the limits of any customs area.

Power to  
approve  
landing  
places and  
specify  
limits of  
customs  
area.

**Power to declare places to be warehousing stations.** 9. The Board may, by notification in the Official Gazette, declare places to be warehousing stations at which alone public warehouses warehousing may be appointed and private warehouses may be licensed.

**Appointment of boarding stations.** 10. The Collector of Customs may, by notification in the Official Gazette, appoint, in or near any customs port, a boarding station for the purpose of boarding of, or disembarkation from, vessels by officers of customs.

#### CHAPTER IV

##### PROHIBITIONS ON IMPORTATION AND EXPORTATION OF GOODS

**Power to prohibit importation or exportation of goods.**

11. (1) If the Central Government is satisfied that it is necessary so to do for any of the purposes specified in sub-section (2), it may, by notification in the Official Gazette, prohibit either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification, the import or export of goods of any specified description.

(2) The purposes referred to in sub-section (1) are the following:—

- (a) the maintenance of the security of India;
- (b) the maintenance of public order and standards of decency or morality;
- (c) the prevention of smuggling;
- (d) the prevention of shortage of goods of any description;
- (e) the conservation of foreign exchange and the safeguarding of balance of payments;
- (f) the prevention of injury to the economy of the country by the uncontrolled import or export of gold or silver;
- (g) the prevention of surplus of any agricultural product or the product of fisheries;
- (h) the maintenance of standards for the classification, grading or marketing of goods in international trade;
- (i) the establishment of any industry;
- (j) the prevention of serious injury to domestic production of goods of any description;
- (k) the protection of human, animal or plant life or health;
- (l) the protection of national treasures of artistic, historic or archaeological value;
- (m) the conservation of exhaustible natural resources;
- (n) the protection of patents, trade marks and copyrights;
- (o) the prevention of deceptive practices;

- (p) the carrying on of foreign trade in any goods by the State, or by a Corporation owned or controlled by the State to the exclusion, complete or partial, of citizens of India;
- (q) the fulfilment of obligations under the Charter of the United Nations for the maintenance of international peace and security;
- (r) the implementation of any treaty, agreement or convention with any country;
- (s) the compliance of imported goods with any laws which are applicable to similar goods produced or manufactured in India;
- (t) the prevention of dissemination of documents containing any matter which is likely to prejudicially affect friendly relations with any foreign State or is derogatory to national prestige;
- (u) the prevention of the contravention of any law for the time being in force; and
- (v) any other purpose conducive to the interests of the general public.

## CHAPTER V

### LEVY OF, AND EXEMPTION FROM, CUSTOMS DUTIES

**32 of 1934.** 12. (1) Except as otherwise provided in this Act, or any other law for the time being in force, duties of customs shall be levied at such rates as may be specified under the Indian Tariff Act, 1934, or any other law for the time being in force, on goods imported into, or exported from, India.

- (2) The provisions of sub-section (1) shall apply in respect of—
- (a) all goods belonging to the Central Government; and
  - (b) all goods belonging to the Government of a State and used for the purposes of a trade or business of any kind carried on by, or on behalf of, that Government, or of any operations connected with such trade or business;
- as they apply in respect of goods not belonging to any Government.

13. If any imported goods are pilfered after the unloading thereof and before the proper officer has made an order for clearance for home consumption or deposit in a warehouse, the importer shall not be liable to pay the duty leviable on such goods except where such goods are restored to the importer after pilferage.

**32 of 1934.** 14. (1) For the purposes of the Indian Tariff Act, 1934, or any other law for the time being in force whereunder a duty of customs is chargeable on any goods by reference to their value, the value of such goods shall be deemed to be—

Valuation of  
goods for  
purposes of  
assessment.

(a) the price at which such or like goods are ordinarily sold, or offered for sale, for delivery at the time and place of importation or exportation, as the case may be, in the course of international trade, where the seller and the buyer have no interest in the business of each other and the price is the sole consideration for the sale or offer for sale;

(b) where such price is not ascertainable, the nearest ascertainable equivalent thereof determined in accordance with the rules made in this behalf.

(2) Notwithstanding anything contained in sub-section (1), if the Central Government is satisfied that it is necessary or expedient so to do it may, by notification in the Official Gazette, fix tariff values for any class of imported goods or export goods, having regard to the trend of value of such or like goods, and where any such tariff values are fixed, the duty shall be chargeable with reference to such tariff value.

**15.** (1) The rate of duty and tariff valuation, if any, applicable to any imported goods, shall be the rate and valuation in force,—

(a) in the case of goods entered for home consumption under section 46, on the date on which a bill of entry in respect of such goods is presented under that section;

(b) in the case of goods cleared from a warehouse under section 68, on the date on which the goods are actually removed from the warehouse;

(c) in the case of any other goods, on the date of payment of duty :

Provided that if a bill of entry has been presented before the date of entry inwards of the vessel by which the goods are imported, the bill of entry shall be deemed to have been presented on the date of such entry inwards.

(2) The provisions of this section shall not apply to baggage and goods imported by post.

**16.** (1) The rate of duty and tariff valuation, if any, applicable to any export goods, shall be the rate and valuation in force,—

(a) in the case of goods entered for export under section 50, on the date on which a shipping bill or a bill of export in respect of such goods is presented under that section;

(b) in the case of any other goods, on the date of payment of duty :

Provided that if the shipping bill has been presented before the date of entry outwards of the vessel by which the goods are to be exported, the shipping bill shall be deemed to have been presented on the date of such entry outwards.

(2) The provisions of this section shall not apply to baggage and goods exported by post.

17. (1) After an importer has entered any imported goods under section 46 or an exporter has entered any export goods under section 50 the imported goods or the export goods, as the case may be, or such part thereof as may be necessary may, without undue delay, be examined and tested by the proper officer. Assessment of duty.

(2) After such examination and testing, the duty, if any, leviable on such goods shall, save as otherwise provided in section 85, be assessed.

(3) For the purpose of assessing duty under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any contract, broker's note, policy of insurance, catalogue or other document whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained, and to furnish any information required for such ascertainment which it is in his power to produce or furnish, and thereupon the importer, exporter or such other person shall produce such document and furnish such information.

(4) Notwithstanding anything contained in this section, imported goods or export goods may, prior to the examination or testing thereof, be permitted by the proper officer to be assessed to duty on the basis of the statements made in the entry relating thereto and the documents produced and the information furnished under sub-section (3); but if it is found subsequently on examination or testing of the goods or otherwise that any statement in such entry or document or any information so furnished is not true in respect of any matter relevant to the assessment, the goods may, without prejudice to any other action which may be taken under this Act, be re-assessed to duty.

18. (1) Notwithstanding anything contained in this Act but without prejudice to the provisions contained in section 46—

Provisional assessment of duty.

(a) where the proper officer is satisfied that an importer or exporter is unable to produce any document or furnish any information necessary for the assessment of duty on the imported goods or the export goods, as the case may be; or

(b) where the proper officer deems it necessary to subject any imported goods or export goods to any chemical or other test for the purpose of assessment of duty thereon; or

(c) where the importer or the exporter has produced all the necessary documents and furnished full information for the assessment of duty but the proper officer deems it necessary to make further enquiry for assessing the duty;

the proper officer may direct that the duty leviable on such goods may, pending the production of such documents or furnishing of such information or completion of such test or enquiry, be assessed provisionally if the importer or the exporter, as the case may be, furnishes such security as the proper officer deems fit for the payment of the deficiency, if any, between the duty finally assessed and the duty provisionally assessed.

(2) When the duty leviable on such goods is assessed finally in accordance with the provisions of this Act, then—

(a) in the case of goods cleared for home consumption or exportation, the amount paid shall be adjusted against the duty finally assessed and if the amount so paid falls short of, or is in excess of, the finally assessed, the importer or the exporter of the goods shall pay the deficiency or be entitled to a refund, as the case may be;

(b) in the case of warehoused goods, the proper officer may, where the duty finally assessed is in excess of the duty provisionally assessed, require the importer to execute a bond, binding himself in a sum equal to twice the amount of the excess duty.

**19.** Except as otherwise provided in any law for the time being in force, where goods consist of a set of articles, duty shall be calculated as follows:—

(a) articles liable to duty with reference to quantity shall be chargeable to that duty;

(b) articles liable to duty with reference to value shall, if they are liable to duty at the same rate, be chargeable to duty at that rate, and if they are liable to duty at different rates, be chargeable to duty at the highest of such rates;

(c) articles not liable to duty shall be chargeable to duty at the rate at which articles liable to duty with reference to value are liable under clause (b):

Provided that,—

(a) accessories of, and spare parts or maintenance and repairing implements for, any article which satisfy the conditions specified in the rules made in this behalf shall be chargeable at the same rate of duty as that article;

(b) if the importer produces evidence to the satisfaction of the proper officer regarding the value of any of the articles liable to different rates of duty, such article shall be chargeable to duty separately at the rate applicable to it.

**20. (1)** If goods produced or manufactured in India be imported into India after exportation therefrom, such goods shall be liable to duty and be subject to all the conditions and restrictions,

Determination of duty where goods consist of articles liable to different rates of duty.

Re-importation of goods produced or manufactured in India.

if any, to which goods of the like kind and value not so produced or manufactured are liable or subject, on the importation thereof:

Provided that if such importation takes place within three years after the exportation of such goods and it is shown to the satisfaction of the Assistant Collector of Customs that the goods are the same which were exported, the goods may be admitted—

(a) in any case where at the time of exportation of the goods drawback of any customs or excise duty levied by the Union or both was allowed, on payment of customs duty equal to the amount of such drawback;

(b) in any case where at the time of exportation of the goods drawback of any excise duty levied by a State was allowed, on payment of customs duty equal to such excise duty leviable at the time and place of importation of the goods;

(c) in any case where the goods were exported in bond, without payment of—

(i) the customs duty leviable on the imported materials, if any, used in the manufacture of the goods, or

(ii) the excise duty leviable on the indigenous materials, if any, used in the manufacture of the goods, or

(iii) the excise duty, if any, leviable on the goods,

on payment of customs duty equal to the aggregate amount of all such duties calculated at the rates prevailing at the time and place of importation of the goods;

(d) in any other case, without payment of duty.

(2) For the purposes of this section goods shall be deemed to have been produced or manufactured in India, if at least twenty-five per cent. of the total cost of production or manufacture of the goods has been incurred in India.

**21.** All goods, derelict, jetsam, flotsam and wreck brought or coming into India, shall be dealt with as if they were imported into India, unless it be shown to the satisfaction of the proper officer that they are entitled to be admitted duty-free under this Act.

**22. (1)** Where it is shown to the satisfaction of the Assistant Collector of Customs—

(a) that any imported goods had been damaged or had deteriorated at any time before or during the unloading of the goods in India; or

(b) that any imported goods, other than warehoused goods, had been damaged at any time after the unloading thereof in India but before their examination under section 17, on account

Abatement  
of duty on  
damaged or  
deteriorated  
goods.

of any accident not due to any wilful act, negligence or default of the importer, his employee or agent; or

(c) that any warehoused goods had been damaged at any time before clearance for home consumption on account of any accident not due to any wilful act, negligence or default of the owner, his employee or agent,

such goods shall be chargeable to duty in accordance with the provisions of sub-section (2).

(2) The duty to be charged on the goods referred to in sub-section (1) shall bear the same proportion to the duty chargeable on the goods before the damage or deterioration which the value of the damaged or deteriorated goods bears to the value of the goods before the damage or deterioration.

(3) For the purposes of this section, the value of damaged or deteriorated goods may be ascertained by either of the following methods at the option of the owner:—

(a) the value of such goods may be ascertained by the proper officer, or

(b) such goods may be sold by the proper officer by public auction or by tender, or with the consent of the owner in any other manner, and the gross sale proceeds shall be deemed to be the value of such goods.

**Remission  
of duty on  
lost, destroy-  
ed or aban-  
doned goods.**

23. (1) Where it is shown to the satisfaction of the Assistant Collector of Customs that any imported goods have been lost or destroyed, at any time before clearance for home consumption, the Assistant Collector of Customs shall remit the duty on such goods.

(2) The owner of any imported goods may at any time before an order for clearance of the goods for home consumption has been made, relinquish his title to the goods and thereupon he shall not be liable to pay the duty thereon.

**Power to  
make rules  
for denatur-  
ing or  
mutilation  
of goods.**

24. The Central Government may make rules for permitting at the request of the owner the denaturing or mutilation of imported goods which are ordinarily used for more than one purpose so as to render them unfit for one or more of such purposes; and where any goods are so denatured or mutilated they shall be chargeable to duty at such rate as would be applicable if the goods had been imported in the denatured or mutilated form.

**Power to  
grant  
exemption  
from duty.**

25. (1) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt generally either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification goods of any specified description from the whole or any part of duty of customs leviable thereon.

(2) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by special order in each case, exempt from the payment of duty, under circumstances of an exceptional nature to be stated in such order, any goods on which duty is leviable.

26. Where on the exportation of any goods any duty has been paid, such duty shall be refunded to the person by whom or on whose behalf it was paid, if—  
Refund of export duty in certain cases.

(a) the goods are returned to such person otherwise than by way of re-sale;

(b) the goods are re-imported within one year from the date of exportation; and

(c) an application for refund of such duty is made before the expiry of six months from the date on which the proper officer makes an order for the clearance of the goods.

27. (1) Any person claiming refund of any duty paid by him in pursuance of an order of assessment made by an officer of customs lower in rank than an Assistant Collector of Customs may make an application for refund of such duty to the Assistant Collector of Customs before the expiry of six months from the date of payment of duty:  
Claim for refund of duty.

Provided that the limitation of six months shall not apply where any duty has been paid under protest.

*Explanation.*—Where any duty is paid provisionally under section 18, the period of six months shall be computed from the date of adjustment of duty after the final assessment thereof.

(2) If on receipt of any such application the Assistant Collector of Customs is satisfied that the whole or any part of the duty paid by the applicant should be refunded to him, he may make an order accordingly.

(3) Where, as a result of any order passed in appeal or revision under this Act, refund of any duty becomes due to any person, the proper officer may refund the amount to such person without his having to make any claim in that behalf.

(4) Save as provided in section 26, no claim for refund of any duty shall be entertained except in accordance with the provisions of this section.

28. (1) When any duty has not been levied or has been short-levied or erroneously refunded, the proper officer may, within six months from the relevant date, serve notice on the person chargeable with the duty which has not been levied or which has been so short-levied 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 for payment of duties not levied, short-levied or erroneously refunded.

Provided that where any duty has not been levied or has been short-levied or has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts by the importer or the exporter or the agent or employee of the importer or exporter, the provisions of this sub-section shall have effect as if for the words "six months" the words "five years" were substituted.

(2) The Assistant Collector of Customs, after considering the representation, if any, made by the person on whom notice is served under sub-section (1) shall determine the amount of duty due from such person (not being in excess of the amount specified in the notice) and thereupon such person shall pay the amount so determined.

(3) For the purposes of sub-section (1), the expression "relevant date" means—

- (a) in a case where duty is not levied, the date on which the proper officer makes an order for the clearance of the goods;
- (b) in a case where duty is provisionally assessed under section 18, the date of adjustment of duty after the final assessment thereof;
- (c) in a case where duty has been erroneously refunded, the date of refund;
- (d) in any other case, the date of payment of duty.

## CHAPTER VI

### PROVISIONS RELATING TO CONVEYANCES CARRYING IMPORTED OR EXPORTED GOODS

#### Arrival of vessels and aircrafts in India.

29. (1) The person-in-charge of a vessel or an aircraft entering India from any place outside India shall not cause or permit the vessel or aircraft to call or land—

(a) for the first time after arrival in India; or

(b) at any time while it is carrying passengers or cargo brought in that vessel or aircraft;

at any place other than a customs port or a customs airport, as the case may be.

(2) The provisions of sub-section (1) shall not apply in relation to any vessel or aircraft which is compelled by accident, stress of weather or other unavoidable cause to call or land at a place other than a customs port or customs airport but the person-in-charge of any such vessel or aircraft—

(a) shall immediately report the arrival of the vessel or the landing of the aircraft to the nearest customs officer or the

officer-in-charge of a police station and shall on demand produce to him the log book belonging to the vessel or the aircraft;

(b) shall not without the consent of any such officer permit any goods carried in the vessel or the aircraft to be unloaded from, or any of the crew or passengers to depart from the vicinity of, the vessel or the aircraft; and

(c) shall comply with any directions given by any such officer with respect to any such goods,

and no passenger or member of the crew shall, without the consent of any such officer, leave the immediate vicinity of the vessel or the aircraft:

Provided that nothing in this section shall prohibit the departure of any crew or passengers from the vicinity of, or the removal of goods from, the vessel or aircraft where the departure or removal is necessary for reasons of health, safety or the preservation of life or property.

30. (1) The person-in-charge of a conveyance carrying imported goods shall, within twenty-four hours after arrival thereof at a customs station, deliver to the proper officer, in the case of a vessel or aircraft, an import manifest, and in the case of a vehicle, an import report, in the prescribed form:

Delivery of  
import  
manifest  
or import  
report.

Provided that,—

(a) in the case of a vessel any such manifest may be delivered to the proper officer before the arrival of the vessel;

(b) if the proper officer is satisfied that there was sufficient cause for not delivering the import manifest or import report or any part thereof within twenty-four hours after the arrival of the conveyance, he may accept it at any time thereafter.

(2) The person delivering the import manifest or import report shall at the foot thereof make and subscribe to a declaration as to the truth of its contents.

(3) If the proper officer is satisfied that the import manifest or import report is in any way incorrect or incomplete, and that there was no fraudulent intention, he may permit it to be amended or supplemented.

31. (1) The master of a vessel shall not permit the unloading of any imported goods until an order has been given by the proper officer granting entry inwards to such vessel.

(2) No order under sub-section (1) shall be given until an import manifest has been delivered or the proper officer is satisfied that there was sufficient cause for not delivering it.

Imported  
goods not  
to be un-  
loaded from  
vessel until  
entry in-  
wards  
granted.

Imported goods not to be unloaded unless mentioned in import manifest or import report.

Unloading and loading of goods at approved places only.

Goods not to be unloaded or loaded except under supervision of customs officer.

Restrictions on goods being water-borne.

Restrictions on unloading and loading of goods on holidays, etc.

Power to board conveyances.

Power to require production of documents and ask questions.

(3) Nothing in this section shall apply to the unloading of baggage accompanying a passenger or a member of the crew, mail bags, animals, perishable goods and hazardous goods.

32. No imported goods required to be mentioned under the regulations in an import manifest or import report shall, except with the permission of the proper officer, be unloaded at any customs station unless they are specified in such manifest or report for being unloaded at that customs station.

33. Except with the permission of the proper officer, no imported goods shall be unloaded, and no export goods shall be loaded, at any place other than a place approved under clause (a) of section 8 for the unloading or loading of such goods.

34. Imported goods shall not be unloaded from, and export goods shall not be loaded on, any conveyance except under the supervision of the proper officer:

Provided that the Board may, by notification in the Official Gazette, give general permission and the proper officer may in any particular case give special permission, for any goods or class of goods to be unloaded or loaded without the supervision of the proper officer.

35. No imported goods shall be water-borne for being landed from any vessel, and no export goods which are not accompanied by a shipping bill, shall be water-borne for being shipped, unless the goods are accompanied by a boat-note in the prescribed form:

Provided that the Board may, by notification in the Official Gazette, give general permission, and the proper officer may in any particular case give special permission, for any goods or any class of goods to be water-borne without being accompanied by a boat-note.

36. No imported goods shall be unloaded from, and no export goods shall be loaded on, any conveyance on any Sunday or on any holiday observed by the Customs Department or on any other day after the working hours, except after giving the prescribed notice and on payment of the prescribed fees, if any:

Provided that no fees shall be levied for the unloading and loading of baggage accompanying a passenger or a member of the crew, and mail bags.

37. The proper officer may, at any time, board any conveyance carrying imported goods or export goods and may remain on such conveyance for such period as he considers necessary.

38. For the purposes of carrying out the provisions of this Act, the proper officer may require the person-in-charge of any conveyance or animal carrying imported goods or export goods to produce any document and to answer any questions and thereupon such person shall produce such documents and answer such questions.

39. The master of a vessel shall not permit the loading of any export goods, other than baggage and mail bags, until an order has been given by the proper officer granting entry-outwards to such vessel.

40. The person-in-charge of a conveyance shall not permit the loading at a customs station—

(a) of export goods, other than baggage and mail bags, unless a shipping bill or bill of export or a bill of transhipment, as the case may be, duly passed by the proper officer, has been handed over to him by the exporter;

(b) of baggage and mail bags, unless their export has been duly permitted by the proper officer.

41. (1) The person-in-charge of a conveyance carrying export goods shall, before departure of the conveyance from a customs station, deliver to the proper officer in the case of a vessel or aircraft, an export manifest, and in the case of a vehicle, an export report, in the prescribed form:

Provided that if the agent of the person in charge of the conveyance furnishes such security as the proper officer deems sufficient for duly delivering within seven days from the date of departure of the conveyance the export manifest or the export report, as the case may be, the proper officer may (subject to such rules as the Central Government may make in this behalf) accept such manifest or report within the aforesaid period.

(2) The person delivering the export manifest or export report shall at the foot thereof make and subscribe to a declaration as to the truth of its contents.

(3) If the proper officer is satisfied that the export manifest or export report is in any way incorrect or incomplete and that there was no fraudulent intention, he may permit such manifest or report to be amended or supplemented.

42. (1) The person-in-charge of a conveyance which has brought any imported goods or has loaded any export goods at a customs station shall not cause or permit the conveyance to depart from that customs station until a written order to that effect has been given by the proper officer.

(2) No such order shall be given until—

(a) the person-in-charge of the conveyance has answered the questions put to him under section 38;

(b) the provisions of section 41 have been complied with;

(c) the shipping bills or bills of export, the bills of transhipment, if any, and such other documents as the proper officer may require have been delivered to him;

(d) all duties leviable on any stores consumed in such conveyance, and all charges and penalties due in respect of such conveyance or from the person-in-charge thereof have been paid or the payment secured by such guarantee or deposit of such amount as the proper officer may direct;

(e) the person-in-charge of the conveyance has satisfied the proper officer that no penalty is leviable on him under section 116 or the payment of any penalty that may be levied upon him under that section has been secured by such guarantee or deposit of such amount as the proper officer may direct;

(f) in any case where any export goods have been loaded without payment of export duty or in contravention of any provision of this Act or any other law for the time being in force relating to export of goods,—

(i) such goods have been unloaded, or

(ii) where the Assistant Collector of Customs is satisfied that it is not practicable to unload such goods, the person-in-charge of the conveyance has given an undertaking, secured by such guarantee or deposit of such amount as the proper officer may direct, for bringing back the goods to India.

Exemption  
of certain  
classes of  
conveyances  
from certain  
provisions of  
this Chapter.

43. (1) The provisions of sections 30, 41 and 42 shall not apply to a vehicle which carries no goods other than the luggage of its occupants.

(2) The Central Government may, by notification in the Official Gazette, exempt the following classes of conveyances from all or any of the provisions of this Chapter—

(a) conveyances belonging to the Government or any foreign Government;

(b) vessels and aircrafts which temporarily enter India by reason of any emergency.

## CHAPTER VII

### CLEARANCE OF IMPORTED GOODS AND EXPORT GOODS

Chapter not  
to apply to  
baggage and  
postal  
articles.

44. The provisions of this Chapter shall not apply to (a) baggage, and (b) goods imported or to be exported by post.

### *Clearance of imported goods*

Restrictions  
on custody  
and removal  
of imported  
goods.

45. (1) Save as otherwise provided in any law for the time being in force, all imported goods unloaded in a customs area shall remain in the custody of such person as may be approved by the Collector of Customs until they are cleared for home consumption or are warehoused or are transhipped in accordance with the provisions of Chapter VIII.

(2) The person having custody of any imported goods in a customs area, whether under the provisions of sub-section (1) or under any law for the time being in force,—

(a) shall keep a record of such goods and send a copy thereof to the proper officer;

(b) shall not permit such goods to be removed from the customs area or otherwise dealt with, except under and in accordance with the permission in writing of the proper officer.

**46.** (1) The importer of any goods, other than goods intended for transit or transhipment, shall make entry thereof by presenting to the proper officer a bill of entry for home consumption or warehousing in the prescribed form:

Provided that if the importer makes and subscribes to a declaration before the proper officer, to the effect that he is unable for want of full information to furnish all the particulars of the goods required under this sub-section, the proper officer may, pending the production of such information, permit him, previous to the entry thereof (a) to examine the goods in the presence of an officer of customs, or (b) to deposit the goods in a public warehouse appointed under section 57 without warehousing the same.

(2) Save as otherwise permitted by the proper officer, a bill of entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor.

(3) A bill of entry under sub-section (1) may be presented at any time after the delivery of the import manifest or import report as the case may be:

Provided that the Collector of Customs may in any special circumstances permit a bill of entry to be presented before the delivery of such manifest or report.

(4) The importer while presenting a bill of entry shall at the foot thereof make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, relating to the imported goods.

(5) If the proper officer is satisfied that the interests of revenue are not prejudicially affected and that there was no fraudulent intention, he may permit substitution of a bill of entry for home consumption for a bill of entry for warehousing or vice versa.

**47.** Where the proper officer is satisfied that any goods entered for home consumption are not prohibited goods and the importer has paid the import duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance of the goods for home consumption.

Procedure in case of goods not cleared, warehoused, or transhipped within two months after unloading.

**48.** If any goods brought into India from a place outside India are not cleared for home consumption or warehoused or transhipped within two months from the date of the unloading thereof at a customs station or within such further time as the proper officer may allow or if the title to any imported goods is relinquished, such goods may, after notice to the importer and with the permission of the proper officer be sold by the person having the custody thereof:

Provided that—

- (a) animals, perishable goods and hazardous goods, may, with the permission of the proper officer, be sold at any time;
- (b) arms and ammunition may be sold at such time and place and in such manner as the Central Government may direct.

*Explanation.*—In this section, “arms” and “ammunition” have the meanings respectively assigned to them in the Arms Act, 1959.

54 of 1959.

Storage of imported goods in warehouse pending clearance.

**49.** Where in the case of any imported goods, whether dutiable or not, entered for home consumption, the Assistant Collector of Customs is satisfied on the application of the importer that the goods cannot be cleared within a reasonable time, the goods may, pending clearance, be permitted to be stored in a public warehouse, or in a private warehouse if facilities for deposit in a public warehouse are not available; but such goods shall not be deemed to be warehoused goods for the purposes of this Act, and accordingly the provisions of Chapter IX shall not apply to such goods.

#### Clearance of export goods

Entry of goods for exportation.

**50.** (1) The exporter of any goods shall make entry thereof by presenting to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export in the prescribed form.

(2) The exporter of any goods, while presenting a shipping bill or bill of export, shall at the foot thereof make and subscribe to a declaration as to the truth of its contents.

Clearance of goods for exportation.

**51.** Where the proper officer is satisfied that any goods entered for export are not prohibited goods and the exporter has paid the duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance and loading of the goods for exportation.

### CHAPTER VIII

#### GOODS IN TRANSIT

Chapter not to apply to baggage, postal articles and stores.

**52.** The provisions of this Chapter shall not apply to (a) baggage, (b) goods imported by post, and (c) stores.

**53.** Subject to the provisions of section 11, any goods imported in a vessel or aircraft and mentioned in the import manifest as for transit in the same vessel or aircraft to any port or airport outside India or any customs port or customs airport may be allowed to be so transitted without payment of duty.

Transit of  
goods in  
same vessel  
or aircraft.

**54.** (1) Where any goods imported into a customs port or customs airport are intended for transhipment, a bill of transhipment shall be presented to the proper officer in the prescribed form.

Tranship-  
ment of  
goods with-  
out payment  
of duty.

(2) Subject to the provisions of section 11—

(a) where any goods imported into a customs port are mentioned in the import manifest as for transhipment to any port outside India, or

(b) where any goods imported into a customs airport are mentioned in the import manifest as for transhipment to any airport outside India,

such goods may be allowed to be so transhipped without payment of duty.

(3) Where any goods imported into a customs port or a customs airport are mentioned in the import manifest as for transhipment—

15 of 1908.

(a) to any major port as defined in the Indian Ports Act, 1908, or the customs airport at Bombay, Calcutta, Delhi or Madras, or any other customs port or customs airport which the Board may, by notification in the Official Gazette, specify in this behalf, or

(b) to any other customs port or customs airport, and the proper officer is satisfied that the goods are *bona fide* intended for transhipment to such customs port or airport,

the proper officer may allow the goods to be transhipped, without payment of duty, subject to such conditions as may be prescribed for the due arrival of such goods at the customs port or customs airport to which transhipment is allowed.

**55.** Where any goods are allowed to be transitted under section 53 or transhipped under sub-section (3) of section 54 to any customs port or customs airport, they shall, on their arrival at such port or airport, be liable to duty and shall be entered in like manner as goods are entered on the first importation thereof and the provisions of this Act and any rules and regulations shall, so far as may be, apply in relation to such goods.

Entry, etc.,  
of transited  
or tranship-  
ped goods on  
arrival at  
customs port  
or customs  
airport.

**56.** Imported goods may be transported without payment of duty from one land customs station to another, and any goods may be transported from one part of India to another part through any foreign territory, subject to such conditions as may be prescribed for the due arrival of such goods at the place of destination.

Transport of  
certain  
classes of  
goods sub-  
ject to  
prescribed  
conditions.

**CHAPTER IX**  
**WAREHOUSING**

Appointing  
of public  
warehouses.

57. At any warehousing station, the Assistant Collector of Customs may appoint public warehouses wherein dutiable goods may be deposited without payment of duty.

Licensing of  
private  
warehouses.

58. (1) At any warehousing station, the Assistant Collector of Customs may license private warehouses wherein dutiable goods imported by or on behalf of the licensee, or any other imported goods in respect of which facilities for deposit in a public warehouse are not available, may be deposited without payment of duty.

(2) The Assistant Collector of Customs may cancel a licence granted under sub-section (1)—

- (a) by giving one month's notice in writing to the licensee; or
- (b) if the licensee has contravened any provision of this Act or the rules or regulations or committed breach of any of the conditions of the licence:

Provided that before any licence is cancelled under clause (b), the licensee shall be given a reasonable opportunity of being heard.

(3) Pending an enquiry whether a licence granted under sub-section (1) should be cancelled under clause (b) of sub-section (2), the Assistant Collector of Customs may suspend the licence.

Warehousing  
bond.

59. (1) The importer of any dutiable goods which have been entered for warehousing and assessed to duty under section 17 or section 18 shall execute a bond binding himself in a sum equal to twice the amount of the duty assessed on such goods,—

(a) to observe all the provisions of this Act and the rules and regulations in respect of such goods;

(b) to pay on or before a date specified in a notice of demand all duties, rent and charges claimable on account of such goods under this Act, together with interest on the same from the date so specified at the rate of six per cent. per annum or such other rate as is for the time being fixed by the Board; and

(c) to discharge all penalties incurred for violation of the provisions of this Act and the rules and regulations in respect of such goods.

(2) For the purposes of sub-section (1), the Assistant Collector of Customs may permit an importer to enter into a general bond in such amount as the Assistant Collector of Customs may approve in respect of the warehousing of goods to be imported by him within a specified period.

(3) A bond executed under this section by an importer in respect of any goods shall continue in force notwithstanding the transfer of the goods to any other person or the removal of the goods to another warehouse:

Provided that where the whole of the goods or any part thereof are transferred to another person, the proper officer may accept a fresh bond from the transferee in a sum equal to twice the amount of duty assessed on the goods transferred and thereupon the bond executed by the transferor shall be enforceable only for a sum mentioned therein less the amount for which a fresh bond is accepted from the transferee.

**60.** When the provisions of section 59 have been complied with in respect of any goods, the proper officer may make an order permitting the deposit of the goods in a warehouse without payment of duty.

Permission  
for deposit  
of goods in  
a warehouse.

**61.** Any warehoused goods may be left in the warehouse in which they are deposited or in any warehouse to which they may be removed, till the expiry of three years after the date on which the proper officer made an order under section 60 permitting the deposit of the goods in a warehouse:

Period for  
which  
goods may  
remain  
warehoused.

Provided that—

(i) in the case of any goods which are likely to deteriorate, the aforesaid period of three years may be reduced by the Collector of Customs to such shorter period as he may deem fit;

(ii) in the case of any goods which are not likely to deteriorate, the aforesaid period of three years may, on sufficient cause being shown, be extended by the Collector of Customs for a period not exceeding one year and by the Board for such further period as it may deem fit:

Provided further that when the licence for any private warehouse is cancelled, the owner of any goods warehoused therein shall, within seven days from the date on which notice of such cancellation is given or within such extended period as the proper officer may allow, remove the goods from such warehouse to another warehouse or clear them for home consumption or exportation.

**62. (1)** All warehoused goods shall be subject to the control of the proper officer.

Control  
over ware-  
housed  
goods.

(2) No person shall enter a warehouse or remove any goods therefrom without the permission of the proper officer.

(3) The proper officer may cause any warehouse to be locked with the lock of the Customs Department and no person shall remove or break such lock.

(4) The proper officer shall have access to every part of a warehouse and power to examine the goods therein.

Payment of  
rent and  
warehouse  
charges.

**63.** (1) The owner of any warehoused goods shall pay to the warehouse-keeper rent and warehouse charges at the rates fixed under any law for the time being in force or where no rates are so fixed, at such rates as may be fixed by the Collector of Customs.

Owner's  
right to  
deal with  
warehoused  
goods.

(2) If any rent or warehouse charges are not paid within ten days from the date when they became due, the warehouse-keeper may, after notice to the owner of the warehoused goods and with the permission of the proper officer cause to be sold (any transfer of the warehoused goods notwithstanding) such sufficient portion of the goods as the warehouse-keeper may select.

**64.** With the sanction of the proper officer and on payment of the prescribed fees, the owner of any goods may either before or after warehousing the same—

- (a) inspect the goods;
- (b) separate damaged or deteriorated goods from the rest;
- (c) sort the goods or change their containers for the purpose of preservation, sale, export or disposal of the goods;
- (d) deal with the goods and their containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods;
- (e) show the goods for sale; or
- (f) take samples of goods without entry for home consumption, and if the proper officer so permits, without payment of duty on such samples.

Manufacture  
and other  
operations  
in relation  
to goods in  
a warehouse.

**65.** (1) With the sanction of the Assistant Collector of Customs and subject to such conditions and on payment of such fees as may be prescribed, the owner of any warehoused goods may carry on any manufacturing process or other operations in the warehouse in relation to such goods.

(2) Where in the course of any operations permissible in relation to any warehoused goods under sub-section (1), there is any waste or refuse, the following provisions shall apply:—

(a) if the whole or any part of the goods resulting from such operations are exported, import duty shall be remitted on the quantity of the warehoused goods contained in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods exported:

Provided that such waste or refuse is either destroyed or duty is paid on such waste or refuse as if it had been imported into India in that form;

(b) if the whole or any part of the goods resulting from such operations are cleared from the warehouse for home consump-

tion, import duty shall be charged on the quantity of the warehoused goods contained in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods cleared for home consumption.

**66.** If any imported materials are used in accordance with the provisions of section 65 for the manufacture of any goods and the rate of duty leviable on the imported materials exceeds the rate of duty leviable on such goods, the Central Government, if satisfied that in the interests of the establishment or development of any domestic industry it is necessary so to do, may, by notification in the Official Gazette, exempt the imported materials from the whole or part of the excess rate of duty.

**67.** The owner of any warehoused goods may, with the permission of the proper officer, remove them from one warehouse to another, without payment of duty, subject to such conditions as may be prescribed for the due arrival of the warehoused goods at the warehouse to which removal is permitted.

**68.** The importer of any warehoused goods may clear them for home consumption if—

- (a) a bill of entry for home consumption in respect of such goods has been presented in the prescribed form;
- (b) the import duty leviable on such goods and all penalties, rent, interest and other charges payable in respect of such goods have been paid; and
- (c) an order for clearance of such goods for home consumption has been made by the proper officer.

**69.** (1) Any warehoused goods may be exported to a place outside India without payment of import duty if—

- (a) a shipping bill or a bill of export has been presented in respect of such goods in the prescribed form;
- (b) the export duty, penalties, rent, interest and other charges payable in respect of such goods have been paid; and
- (c) an order for clearance of such goods for exportation has been made by the proper officer.

(2) Notwithstanding anything contained in sub-section (1), if the Central Government is of opinion that warehoused goods of any specified description are likely to be smuggled back into India, it may, by notification in the Official Gazette, direct that such goods shall not be exported to any place outside India without payment of duty or may be allowed to be so exported subject to such restrictions and conditions as may be specified in the notification.

Allowance in  
case of vola-  
tile goods.

**70.** (1) When any warehoused goods to which this section applies are at the time of delivery from a warehouse found to be deficient in quantity on account of natural loss, the Assistant Collector of Customs may remit the duty on such deficiency.

(2) This section applies to such warehoused goods as the Central Government, having regard to the volatility of the goods and the manner of their storage, may, by notification in the Official Gazette, specify.

Goods not  
to be taken  
out of ware-  
house except  
as provided  
by this Act.

**71.** No warehoused goods shall be taken out of a warehouse except on clearance for home consumption or re-exportation, or for removal to another warehouse, or as otherwise provided by this Act.

Goods im-  
properly  
removed  
from ware-  
house, etc.

**72.** (1) In any of the following cases, that is to say,—

(a) where any warehoused goods are removed from a warehouse in contravention of section 71;

(b) where any warehoused goods have not been removed from a warehouse at the expiration of the period during which such goods are permitted under section 61 to remain in a warehouse;

(c) where any warehoused goods have been taken under section 64 as samples without payment of duty;

(d) where any goods in respect of which a bond has been executed under section 59 and which have not been cleared for home consumption or exportation are not duly accounted for to the satisfaction of the proper officer;

the proper officer may demand, and the owner of such goods shall forthwith pay, the full amount of duty chargeable on account of such goods together with all penalties, rent, interest and other charges payable in respect of such goods.

(2) If any owner fails to pay any amount demanded under sub-section (1), the proper officer may, without prejudice to any other remedy, cause to be detained and sold, after notice to the owner (any transfer of the goods notwithstanding) such sufficient portion of his goods, if any, in the warehouse, as the said officer may select.

Cancella-  
tion and  
return of  
warehos-  
ing bond.

**73.** When the whole of the goods covered by any bond executed under section 59 have been cleared for home consumption or exported or are otherwise duly accounted for, and when all amounts due on account of such goods have been paid, the proper officer shall cancel the bond as discharged in full, and shall on demand deliver it, so cancelled, to the person who has executed or is entitled to receive it.

## CHAPTER X

## DRAWBACK

**74.** (1) When any goods capable of being easily identified which have been imported into India and upon which any duty has been paid on importation, are exported to any place outside India, ninety-eight per cent. of such duty shall, except as otherwise hereinafter provided, be re-paid as drawback, if—

Drawback  
allowable on  
re-export of  
duty-paid  
goods.

(a) the goods are identified to the satisfaction of the Assistant Collector of Customs as the goods which were imported; and

(b) the goods are entered for export within two years from the date of payment of duty on the importation thereof:

Provided that in any particular case the aforesaid period of two years may, on sufficient cause being shown, be extended by the Board by such further period as it may deem fit.

(2) Notwithstanding anything contained in sub-section (1), the rate of drawback in the case of goods which have been used after the importation thereof shall be such as the Central Government, having regard to the duration of use, depreciation in value and other relevant circumstances, may, by notification in the Official Gazette, fix.

(3) The Board may make regulations for the purpose of carrying out the provisions of this section and, in particular, such regulations may—

(a) provide for the manner in which the identity of goods imported in different consignments which are ordinarily stored together in bulk, may be established;

(b) specify the goods which shall be deemed to be not capable of being easily identified.

(4) For the purposes of this section—

(a) goods shall be deemed to have been entered for export on the date with reference to which the rate of duty is calculated under section 16;

(b) in the case of goods assessed to duty provisionally under section 18, the date of payment of the provisional duty shall be deemed to be the date of payment of duty.

**75.** (1) Where it appears to the Central Government that in respect of goods of any class or description manufactured in India and exported to any place outside India, a drawback should be allowed of duties of customs chargeable under this Act on any imported materials of a class or description used in the manufacture of such goods, the Central Government may, by notification in the Official Gazette, direct that drawback shall be allowed in respect of such goods in accordance with, and subject to, the rules made under sub-section (2).

Drawback on  
imported  
materials  
used in the  
manufacture  
of goods  
which are  
exported.

(2) The Central Government may make rules for the purpose of carrying out the provisions of sub-section (1) and, in particular, such rules may provide—

(a) for the payment of drawback equal to the amount of duty actually paid on the imported materials used in the manufacture of the goods or as is specified in the rules as the average amount of duty paid on the materials of that class or description used in the manufacture of goods of that class or description either by manufacturers generally or by any particular manufacturer;

(b) for the production of such certificates, documents and other evidence in support of each claim of drawback as may be necessary;

(c) for requiring the manufacturer to give access to every part of his manufactory to any officer of customs specially authorised in this behalf by the Assistant Collector of Customs to enable such authorised officer to inspect the processes of manufacture and to verify by actual check or otherwise the statements made in support of the claim for drawback.

Prohibition  
and regula-  
tion of  
drawback  
in certain  
cases.

76. (1) Notwithstanding anything hereinbefore contained, no drawback shall be allowed—

(a) in respect of any goods which are required under the regulations to be included in the export manifest or export report and are not so included;

(b) in respect of any goods the market-price of which is less than the amount of drawback due thereon;

(c) where the drawback due in respect of any goods is less than five rupees.

(2) Without prejudice to the provisions of sub-section (1), if the Central Government is of opinion that goods of any specified description in respect of which drawback may be claimed under this Chapter are likely to be smuggled back into India, it may, by notification in the Official Gazette, direct that drawback shall not be allowed in respect of such goods or may be allowed subject to such restrictions and conditions as may be specified in the notification.

## CHAPTER XI

### SPECIAL PROVISIONS REGARDING BAGGAGE, GOODS IMPORTED OR EXPORTED BY POST, AND STORES

#### *Baggage*

Declaration  
by owner of  
baggage.

77. The owner of any baggage shall, for the purpose of clearing it, make a declaration of its contents to the proper officer.

**78.** The rate of duty and tariff valuation, if any, applicable to baggage shall be the rate and valuation in force on the date on which a declaration is made in respect of such baggage under section 77.

Determination of rate of duty and tariff valuation in respect of baggage.

**79.** (1) The proper officer may, subject to any rules made under sub-section (2), pass free of duty—

Bona fide baggage exempted from duty.

(a) any article in the baggage of a passenger or a member of the crew in respect of which the said officer is satisfied that it has been in his use for such minimum period as may be specified in the rules;

(b) any article in the baggage of a passenger in respect of which the said officer is satisfied that it is for the use of the passenger or his family or is a *bona fide* gift or souvenir; provided that the value of each such article and the total value of all such articles does not exceed such limits as may be specified in the rules.

(2) The Central Government may make rules for the purpose of carrying out the provisions of this section and, in particular, such rules may specify—

(a) the minimum period for which any article has been used by a passenger or a member of the crew for the purpose of clause (a) of sub-section (1);

(b) the maximum value of any individual article and the maximum total value of all the articles which may be passed free of duty under clause (b) of sub-section (1);

(c) the conditions (to be fulfilled before or after clearance) subject to which any baggage may be passed free of duty.

(3) Different rules may be made under sub-section (2) for different classes of persons.

**80.** Where the baggage of a passenger contains any article which is dutiable or the import of which is prohibited and in respect of which a true declaration has been made under section 77, the proper officer may, at the request of the passenger, detain such article for the purpose of being returned to him on his leaving India.

Temporary detention of baggage.

**81.** The Board may make regulations,—

Regulations in respect of baggage.

(a) providing for the manner of declaring the contents of any baggage;

(b) providing for the custody, examination, assessment to duty and clearance of baggage;

(c) providing for the transit or transhipment of baggage from one customs station to another or to a place outside India.

**Goods imported or exported by post**

Label or declaration accompanying goods to be treated as entry.

Rate of duty and tariff valuation in respect of goods imported or exported by post.

Regulations regarding goods imported or to be exported by post.

Stores may be allowed to be warehoused without assessment to duty.

Transit and transhipment of stores.

Imported stores may be consumed on board a foreign-going vessel or aircraft.

82. In the case of goods imported or exported by post, any label or declaration accompanying the goods, which contains the description, quantity and value thereof, shall be deemed to be in entry for import or export, as the case may be, for the purposes of this Act.

83. (1) The rate of duty and tariff-value, if any, applicable to any goods imported by post shall be the rate and valuation in force on the date on which the postal authorities present to the proper officer a list containing the particulars of such goods for the purpose of assessing the duty thereon:

Provided that if such goods are imported by a vessel and the list of the goods containing the particulars was presented before the date of the arrival of the vessel, it shall be deemed to have been presented on the date of such arrival.

(2) The rate of duty and tariff value, if any, applicable to any goods exported by post shall be the rate and valuation in force on the date on which the exporter delivers such goods to the postal authorities for exportation.

84. (1) The Board may make regulations providing for—

(a) the form and manner in which an entry may be made in respect of any specified class of goods imported or to be exported by post, other than goods which are accompanied by a label or declaration containing the description, quantity and value thereof;

(b) the examination, assessment to duty, and clearance of goods imported or to be exported by post;

(c) the transit or transhipment of goods imported by post from one customs station to another or to a place outside India.

**Stores**

85. Where any imported goods are entered for warehousing and the importer makes and subscribes to a declaration that the goods are to be supplied as stores to vessels or aircrafts without payment of import duty under this Chapter, the proper officer may permit the goods to be warehoused without the goods being assessed to duty.

86. (1) Any stores imported in a vessel or aircraft may, without payment of duty, remain on board such vessel or aircraft while it is in India.

(2) Any stores imported in a vessel or aircraft may, with the permission of the proper officer, be transferred to any vessel or aircraft as stores for consumption therein as provided in section 87 or section 90.

87. Any imported stores on board a vessel or aircraft (other than stores to which section 90 applies) may, without payment of duty, be consumed thereon as stores during the period such vessel or aircraft is a foreign-going vessel or aircraft.

**88.** The provisions of section 69 and Chapter X shall apply to stores (other than those to which section 90 applies) as they apply to other goods, subject to the modifications that—

Application of section 69 and Chapter X to stores.

(a) for the words "exported to any place outside India" or the word "exported", wherever they occur, the words "taken on board any foreign-going vessel or aircraft as stores" shall be substituted;

(b) in the case of drawback on fuel and lubricating oil taken on board any foreign-going aircraft as stores, sub-section (1) of section 74 shall have effect as if for the words "ninety-eight per cent.", the words "the whole" were substituted.

**89.** Goods produced or manufactured in India and required as stores on any foreign-going vessel or aircraft may be exported free of duty in such quantities as the proper officer may determine, having regard to the size of the vessel or aircraft, the number of passengers and crew and the length of the voyage or journey on which the vessel or aircraft is about to depart.

Stores to be free of export duty.

**90.** (1) Imported stores specified in sub-section (3) may without payment of duty be consumed on board a ship of the Indian Navy.

Concessions in respect of imported stores for the Navy.

(2) The provisions of section 69 and Chapter X shall apply to stores specified in sub-section (3) as they apply to other goods, subject to the modifications that—

(a) for the words "exported to any place outside India" or the word "exported", wherever they occur, the words "taken on a ship of the Indian Navy" shall be substituted;

(b) for the words "ninety-eight per cent." in sub-section (1) of section 74, the words "the whole" shall be substituted.

(3) The stores referred to in sub-sections (1) and (2) are the following:—

(a) stores for the use of a ship of the Indian Navy;

(b) stores supplied free by the Government for the use of the crew of a ship of the Indian Navy in accordance with their conditions of service.

## CHAPTER XII

### PROVISIONS RELATING TO COASTAL GOODS AND VESSELS CARRYING COASTAL GOODS

**91.** The provisions of this Chapter shall not apply to baggage and stores.

Chapter not to apply to baggage and stores.

**92.** (1) The consignor of any coastal goods shall make an entry thereof by presenting to the proper officer a bill of coastal goods in the prescribed form.

Entry of coastal goods.

(2) Every such consignor while presenting a bill of coastal goods shall, at the foot thereof, make and subscribe to a declaration as to the truth of the contents of such bill.

Coastal  
goods not to  
be loaded  
until bill re-  
lating  
thereto  
is passed,  
etc.

93. The master of a vessel shall not permit the loading of any coastal goods on the vessel until a bill relating to such goods presented under section 92 has been passed by the proper officer and has been delivered to the master by the consignor.

Clearance of  
coastal goods  
at destina-  
tion.

94. (1) The master of a vessel carrying any coastal goods shall carry on board the vessel all bills relating to such goods delivered to him under section 93 and shall, immediately on arrival of the vessel at any customs or coastal port, deliver to the proper officer of that port all bills relating to the goods which are to be unloaded at that port.

(2) Where any coastal goods are unloaded at any port, the proper officer shall permit clearance thereof if he is satisfied that they are entered in a bill of coastal goods delivered to him under sub-section (1).

Master of  
a coasting  
vessel to  
carry an  
advice  
book.

95. (1) The master of every vessel carrying coastal goods shall be supplied by the Customs authorities with a book to be called the "advice book".

(2) The proper officer at each port of call by such vessel shall make such entries in the advice book as he deems fit, relating to the goods loaded on the vessel at that port.

(3) The master of every such vessel shall carry the advice book on board the vessel and shall on arrival at each port of call deliver it to the proper officer at that port for his inspection.

Loading and  
unloading of  
coastal  
goods at  
customs port  
or coastal  
port only.

No coasting  
vessel to  
leave with-  
out written  
order.

96. No coastal goods shall be loaded on, or unloaded from, any vessel at any port other than a customs port or a coastal port appointed under section 7 for the loading or unloading of such goods.

97. (1) The master of a vessel which has brought or loaded any coastal goods at a customs or coastal port shall not cause or permit the vessel to depart from such port until a written order to that effect has been given by the proper officer.

(2) No such order shall be given until—

(a) the master of the vessel has answered the questions put to him under section 38;

(b) all charges and penalties due in respect of that vessel or from the master thereof have been paid or the payment secured by such guarantee or deposit of such amount as the proper officer may direct;

(c) the master of the vessel has satisfied the proper officer that no penalty is leviable on him under section 116 or the payment of any penalty that may be levied upon him under that section has been secured by such guarantee or deposit of such amount as the proper officer may direct;

(d) the provisions of this Chapter and any rules and regulations relating to coastal goods and vessels carrying coastal goods have been complied with.

**98.** (1) Sections 33, 34 and 36 shall, so far as may be, apply to <sup>Application of certain provisions of this Act to coastal goods, etc.</sup> coastal goods as they apply to imported goods or export goods.

(2) Sections 37 and 38 shall, so far as may be, apply to vessels carrying coastal goods as they apply to vessels carrying imported goods or export goods.

(3) The Central Government may, by notification in the Official Gazette, direct that all or any of the other provisions of Chapter VI and the provisions of section 45 shall apply to coastal goods or vessels carrying coastal goods subject to such exceptions and modifications as may be specified in the notification.

**99.** The Central Government may make rules for—

(a) preventing the taking out of India of any coastal goods the export of which is dutiable or prohibited under this Act or any other law for the time being in force;

(b) preventing, in the case of a vessel carrying coastal goods as well as imported or export goods, the substitution of imported or export goods by coastal goods.

Power to make rules in respect of coastal goods and coasting vessels.

### CHAPTER XIII

#### SEARCHES, SEIZURE AND ARREST

**100.** (1) If the proper officer has reason to believe that any person to whom this section applies has secreted about his person, any goods liable to confiscation or any documents relating thereto, he may search that person.

Power to search suspected persons entering or leaving India, etc.

(2) This section applies to the following persons, namely:—

(a) any person who has landed from or is about to board or is on board any vessel within the Indian customs waters;

(b) any person who has landed from or is about to board, or is on board a foreign-going aircraft;

(c) any person who has got out of, or is about to get into, or is in, a vehicle, which has arrived from, or is to proceed to any place outside India;

(d) any person not included in clause (a), (b) or (c) who has entered or is about to leave India;

(e) any person in a customs area.

**Power to search suspected persons in certain other cases.**

101. (1) Without prejudice to the provisions of section 100, if an officer of customs empowered in this behalf by general or special order of the Collector of Customs, has reason to believe that any person has secreted about his person any goods of the description specified in sub-section (2) which are liable to confiscation, or documents relating thereto, he may search that person.

(2) The goods referred to in sub-section (1) are the following:—

- (a) gold;
- (b) diamonds;
- (c) manufactures of gold or diamonds;
- (d) watches;

(e) any other class of goods which the Central Government may, by notification in the Official Gazette, specify.

**Persons to be searched may require to be taken before gazetted officer of customs or magistrate.**

102. (1) When any officer of customs is about to search any person under the provisions of section 100 or section 101, the officer of customs shall, if such person so requires, take him without unnecessary delay to the nearest gazetted officer of customs or magistrate.

(2) If such requisition is made, the officer of customs may detain the person making it until he can bring him before the gazetted officer of customs or the magistrate.

(3) The gazetted officer of customs or the magistrate before whom any such person is brought shall, if he sees no reasonable ground for search, forthwith discharge the person but otherwise shall direct that search be made.

(4) Before making a search under the provisions of section 100 or section 101, the officer of customs shall call upon two or more persons to attend and witness the search and may issue an order in writing to them or any of them so to do; and the search shall be made in the presence of such persons and a list of all things seized in the course of such search shall be prepared by such officer or other person and signed by such witnesses.

(5) No female shall be searched by any one excepting a female.

**Power to screen or X-ray bodies of suspected persons for detecting secreted goods.**

103. (1) Where the proper officer has reason to believe that any person referred to in sub-section (2) of section 100 has any goods liable to confiscation secreted inside his body, he may detain such person and produce him without unnecessary delay before the nearest magistrate.

(2) A magistrate before whom any person is brought under sub-section (1) shall, if he sees no reasonable ground for believing that such person has any such goods secreted inside his body, forthwith discharge such person.

(3) Where any such magistrate has reasonable ground for believing that such person has any such goods secreted inside his body and the magistrate is satisfied that for the purpose of discovering such goods it is necessary to have the body of such person screened or X-rayed, he may make an order to that effect.

(4) Where a magistrate has made any order under sub-section (3), in relation to any person, the proper officer shall, as soon as practicable, take such person before a radiologist possessing qualifications recognized by the Central Government for the purpose of this section, and such person shall allow the radiologist to screen or X-ray his body.

(5) A radiologist before whom any person is brought under sub-section (4) shall, after screening or X-raying the body of such person, forward his report, together with any X-ray pictures taken by him, to the magistrate without unnecessary delay.

(6) Where on receipt of a report from a radiologist under sub-section (5) or otherwise, the magistrate is satisfied that any person has any goods liable to confiscation secreted inside his body, he may direct that suitable action for bringing out such goods be taken on the advice and under the supervision of a registered medical practitioner and such person shall be bound to comply with such direction:

Provided that in the case of a female no such action shall be taken except on the advice and under the supervision of a female registered medical practitioner.

(7) Where any person is brought before a magistrate under this section, such magistrate may for the purpose of enforcing the provisions of this section order such person to be kept in such custody and for such period as he may direct.

(8) Nothing in this section shall apply to any person referred to in sub-section (1), who admits that goods liable to confiscation are secreted inside his body, and who voluntarily submits himself for suitable action being taken for bringing out such goods.

*Explanation.*—For the purposes of this section, the expression "registered medical practitioner" means any person who holds a qualification granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916, or notified under section 3 of that Act, or by an authority specified in any of the Schedules to the Indian Medical Council Act, 1956.

104. (1) If an officer of customs empowered in this behalf by general or special order of the Collector of Customs has reason to believe that any person in India or within the Indian Customs waters has been guilty of an offence punishable under section 135, he may arrest such person and shall, as soon as may be, inform him of the grounds for such arrest.

(2) Every person arrested under sub-section (1) shall, without unnecessary delay, be taken to a magistrate.

(3) Where an officer of customs has arrested any person under sub-section (1), he shall, for the purpose of releasing such person on bail or otherwise, have the same powers and be subject to the same provisions as the officer-incharge of a police-station has and is subject to under the Code of Criminal Procedure, 1898.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence under this Act shall not be cognizable.

105. (1) If the Assistant Collector of Customs, or in any area adjoining the land frontier or the coast of India an officer of customs specially empowered by name in this behalf by the Board, has reason to believe that any goods liable to confiscation, or any documents or things which in his opinion will be useful for or relevant to any proceeding under this Act, are secreted in any place, he may authorise any officer of customs to search or may himself search for such goods, documents or things.

(2) The provisions of the Code of Criminal Procedure, 1898, relating to searches shall, so far as may be, apply to searches under this section subject to the modification that sub-section (5) of section 165 of the said Code shall have effect as if for the word "Magistrate", wherever it occurs, the words "Collector of Customs" were substituted.

106. (1) Where the proper officer has reason to believe that any aircraft, vehicle or animal in India or any vessel in India or within the Indian customs waters has been, is being, or is about to be, used in the smuggling of any goods or in the carriage of any goods which have been smuggled, he may at any time stop any such vehicle, animal or vessel or, in the case of an aircraft, compel it to land, and—

(a) rummage and search any part of the aircraft, vehicle or vessel;

(b) examine and search any goods in the aircraft, vehicle or vessel or on the animal;

(c) break open the lock of any door or package for exercising the powers conferred by clauses (a) and (b), if the keys are withheld.

(2) Where for the purposes of sub-section (1)—

(a) it becomes necessary to stop any vessel or compel any aircraft to land, it shall be lawful for any vessel or aircraft in the service of the Government while flying her proper flag and any authority authorised in this behalf by the Central Government to summon such vessel to stop or the aircraft to land, by means of an international signal, code or other recognized means, and thereupon such vessel shall forthwith stop or such aircraft shall forthwith land; and if it fails to do so, chase may be given thereto by any vessel or aircraft as aforesaid and if after a gun is fired as a signal the vessel fails to stop or the aircraft fails to land, it may be fired upon;

(b) it becomes necessary to stop any vehicle or animal, the proper officer may use all lawful means for stopping it, and where such means fail, the vehicle or animal may be fired upon.

**107.** Any officer of customs empowered in this behalf by general or special order of the Collector of Customs may, during the course of any enquiry in connection with the smuggling of any goods,—  
Power to examine persons.

(a) require any person to produce or deliver any document or thing relevant to the enquiry;

(b) examine any person acquainted with the facts and circumstances of the case.

**108.** (1) Any gazetted officer of customs shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry which such officer is making in connection with the smuggling of any goods.  
Power to summon persons to give evidence and produce documents.

(2) A summons to produce documents or other things may be for the production of certain specified documents or things or for the production of all documents or things of a certain description in the possession or under the control of the person summoned.

(3) All persons so summoned shall be bound to attend either in person or by an authorised agent, as such officer may direct; and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements and produce such documents and other things as may be required:

Provided that the exemption under section 132 of the Code of Civil Procedure, 1908, shall be applicable to any requisition for attendance under this section.

(4) Every such inquiry as aforesaid shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code.

**Power to require production of order permitting clearance of goods imported by land.**

**109.** Any officer of customs appointed for any area adjoining the land frontier of India and empowered in this behalf by general or special order of the Board, may require any person in possession of any goods which such officer has reason to believe to have been imported into India by land, to produce the order made under section 47 permitting clearance of the goods:

Provided that nothing in this section shall apply to any imported goods passing from a land frontier to a land customs station by a route appointed under clause (c) of section 7.

**Seizure of goods, documents and things.**

**110. (1)** If the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods:

Provided that where it is not practicable to seize any such goods, the proper officer may serve on the owner of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer.

**(2)** Where any goods are seized under sub-section (1) and no notice in respect thereof is given under clause (a) of section 124 within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:

Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the Collector of Customs for a period not exceeding six months.

**(3)** The proper officer may seize any documents or things which, in his opinion, will be useful for, or relevant to, any proceeding under this Act.

**(4)** The person from whose custody any documents are seized under sub-section (3) shall be entitled to make copies thereof or take extracts therefrom in the presence of an officer of customs.

## CHAPTER XIV

### CONFISCATION OF GOODS AND CONVEYANCES AND IMPOSITION OF PENALTIES

**Confiscation of improperly imported goods, etc.**

**111.** The following goods brought from a place outside India shall be liable to confiscation:—

**(a)** any goods imported by sea or air which are unloaded or attempted to be unloaded at any place other than a customs port or customs airport appointed under clause (a) of section 7 for the unloading of such goods;

- (b) any goods imported by land or inland water through any route other than a route specified in a notification issued under clause (c) of section 7 for the import of such goods;
- (c) any dutiable or prohibited goods brought into any bay, gulf, creek or tidal river for the purpose of being landed at a place other than a customs port;
- (d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;
- (e) any dutiable or prohibited goods found concealed in any manner in any conveyance;
- (f) any dutiable or prohibited goods required to be mentioned under the regulations in an import manifest or import report which are not so mentioned;
- (g) any dutiable or prohibited goods which are unloaded from a conveyance in contravention of the provisions of section 32, other than goods inadvertently unloaded but included in the record kept under sub-section (2) of section 45;
- (h) any dutiable or prohibited goods unloaded or attempted to be unloaded in contravention of the provisions of section 33 or section 34;
- (i) any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof;
- (j) any dutiable or prohibited goods removed or attempted to be removed from a customs area or a warehouse without the permission of the proper officer or contrary to the terms of such permission;
- (k) any dutiable or prohibited goods imported by land in respect of which the order permitting clearance of the goods required to be produced under section 109 is not produced or which do not correspond in any material particular with the specification contained therein;
- (l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;
- (m) any dutiable or prohibited goods which do not correspond in any material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof;

(n) any dutiable or prohibited goods transitted with or without transhipment or attempted to be so transitted in contravention of the provisions of Chapter VIII;

(o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer.

**Penalty for  
improper  
importation  
of goods,  
etc.**

**112. Any person,—**

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

shall be liable,—

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding five times the value of the goods or one thousand rupees, whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, to a penalty not exceeding five times the duty sought to be evaded on such goods or one thousand rupees, whichever is the greater.

**Confiscation  
of goods  
attempted  
to be im-  
properly  
exported,  
etc.**

**113. The following export goods shall be liable to confiscation:—**

(a) any goods attempted to be exported by sea or air from any place other than a customs port or a customs airport appointed for the loading of such goods;

(b) any goods attempted to be exported by land or inland water through any route other than a route specified in a notification issued under clause (c) of section 7 for the export of such goods;

(c) any dutiable or prohibited goods brought near the land frontier or the coast of India or near any bay, gulf, creek or tidal river for the purpose of being exported from a place other than a land-customs station or a customs port appointed for the loading of such goods;

(d) any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

(e) any dutiable or prohibited goods found concealed in a package which is brought within the limits of a customs area for the purpose of exportation;

(f) any dutiable or prohibited goods which are loaded or attempted to be loaded in contravention of the provisions of section 33 or section 34;

(g) any dutiable or prohibited goods loaded or attempted to be loaded on any conveyance, or water-borne, or attempted to be water-borne for being loaded on any vessel, the eventual destination of which is a place outside India, without the permission of the proper officer;

(h) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;

(i) any dutiable or prohibited goods which do not correspond in any material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof;

(j) any goods on which import duty has not been paid and which are entered for exportation under a claim for drawback under section 74;

(k) any goods cleared for exportation under a claim for drawback which are not loaded for exportation on account of any wilful act, negligence or default of the exporter, his agent or employee, or which after having been loaded for exportation are unloaded without the permission of the proper officer.

**114.** Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable,—

Penalty for  
attempt to  
export  
goods im-  
properly,  
etc.

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding five times the value of the goods or one thousand rupees, whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, to a penalty not exceeding five times the duty sought to be evaded on such goods or one thousand rupees, whichever is the greater;

(iii) in the case of goods under claim for drawback, to a penalty not exceeding five times the amount of drawback claimed or one thousand rupees, whichever is the greater.

**Confiscation  
of con-  
veyances.**

**115.** (1) The following conveyances shall be liable to confiscation:—

(a) any vessel which is or has been within the Indian customs waters, any aircraft which is or has been in India, or any vehicle which is or has been in a customs area,

while constructed, adapted, altered or fitted in any manner for the purpose of concealing goods;

(b) any conveyance from which the whole or any part of the goods is thrown overboard, staved or destroyed so as to prevent seizure by an officer of customs;

(c) any conveyance which having been required to stop or land under section 106 fails to do so, except for good and sufficient cause;

(d) any conveyance from which any warehoused goods cleared for exportation, or any other goods cleared for exportation under a claim for drawback, are unloaded, without the permission of the proper officer;

(e) any conveyance carrying imported goods which has entered India and is afterwards found with the whole or substantial portion of such goods missing, unless the master of the vessel or aircraft is able to account for the loss of, or deficiency in, the goods.

(2) Any conveyance or animal used as a means of transport in the smuggling of any goods or in the carriage of any smuggled goods shall be liable to confiscation, unless the owner of the conveyance or animal proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance or animal and that each of them had taken all such precautions against such use as are for the time being specified in the rules:

Provided that where any such conveyance is used for the carriage of goods or passengers for hire, the owner of any conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine not exceeding the market price of the goods which are sought to be smuggled or the smuggled goods, as the case may be.

*Explanation.*—In this section, “market price” means market price at the date when the goods are seized.

**116.** If any goods loaded in a conveyance for importation into India, or any goods transhipped under the provisions of this Act or not accounting for coastal goods carried in a conveyance, are not unloaded at their place of destination in India, or if the quantity unloaded is short of the quantity to be unloaded at that destination, and if the failure to unload or the deficiency is not accounted for to the satisfaction of the Assistant Collector of Customs, the person-in-charge of the conveyance shall be liable,—

(a) in the case of goods loaded in a conveyance for importation into India or goods transhipped under the provisions of this Act, to a penalty not exceeding twice the amount of duty that would have been chargeable on the goods not unloaded or the deficient goods, as the case may be, had such goods been imported;

(b) in the case of coastal goods, to a penalty not exceeding twice the amount of export duty that would have been chargeable on the goods not unloaded or the deficient goods, as the case may be, had such goods been exported.

**117.** Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding one thousand rupees.

**118.** (a) Where any goods imported in a package are liable to confiscation, the package and any other goods imported in that package shall also be liable to confiscation.

(b) Where any goods are brought in a package within the limits of a customs area for the purpose of exportation and are liable to confiscation, the package and any other goods contained therein shall also be liable to confiscation.

**119.** Any goods used for concealing smuggled goods shall also be liable to confiscation.

*Explanation.*—In this section, “goods” does not include a conveyance used as a means of transport.

**120.** (1) Smuggled goods may be confiscated notwithstanding any change in their form.

(2) Where smuggled goods are mixed with other goods in such manner that the smuggled goods cannot be separated from such other goods, the whole of the goods shall be liable to confiscation:

Provided that where the owner of such goods proves that he had no knowledge or reason to believe that they included any smuggled

goods, only such part of the goods the value of which is equal to the value of the smuggled goods shall be liable to confiscation.

**Confiscation  
of sale-  
proceeds of  
smuggled  
goods.**

**Adjudica-  
tion of  
confiscations  
and penal-  
ties.**

121. Where any smuggled goods are sold by a person having knowledge or reason to believe that the goods are smuggled goods, the sale-proceeds thereof shall be liable to confiscation.

122. In every case under this Chapter in which anything is liable to confiscation or any person is liable to a penalty, such confiscation or penalty may be adjudged,—

(a) without limit, by a Collector of Customs or a Deputy Collector of Customs;

(b) where the value of the goods liable to confiscation does not exceed ten thousand rupees and where the penalty proposed to be imposed does not exceed two thousand rupees, by an Assistant Collector of Customs;

(c) where the value of the goods liable to confiscation does not exceed one thousand rupees and where the penalty proposed to be imposed does not exceed two hundred rupees, by a gazetted officer of customs lower in rank than an Assistant Collector of Customs.

**Burden of  
proof in  
certain cases.**

123. (1) Where any goods to which this section applies are seized under this Act in the reasonable belief that they are smuggled goods, the burden of proving that they are not smuggled goods shall be on the person from whose possession the goods were seized.

(2) This section shall apply to gold, diamonds, manufactures of gold or diamonds, watches, and any other class of goods which the Central Government may by notification in the Official Gazette specify.

**Issue of  
show-cause  
notice  
before con-  
fiscation of  
goods, etc.**

124. No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person—

(a) is given a notice in writing informing him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and

(c) is given a reasonable opportunity of being heard in the matter:

Provided that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned be oral.

125. (1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods an option to pay in lieu of confiscation such fine as the said officer thinks fit:

Provided that, without prejudice to the provisions of the proviso to sub-section (2) of section 115, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.

(2) For the removal of doubts it is hereby declared that any fine in lieu of confiscation of goods imposed under sub-section (1) shall be in addition to any duty and charges payable in respect of such goods.

126. (1) When any goods are confiscated under this Act, such goods shall thereupon vest in the Central Government.

(2) The officer adjudging confiscation shall take and hold possession of the confiscated goods.

127. The award of any confiscation or penalty under this Act by an officer of customs shall not prevent the infliction of any punishment to which the person affected thereby is liable under the provisions of Chapter XVI of this Act or under any other law.

## CHAPTER XV

### APPEALS AND REVISION

128. (1) Any person aggrieved by any decision or order passed under this Act may, within three months from the date of the communication to him of such decision or order—

(a) where the decision or order has been passed by a Collector of Customs, appeal to the Board;

(b) where the decision or order has been passed by an officer of customs lower in rank than a Collector of Customs, appeal to the Appellate Collector of Customs:

Provided that the Appellate Authority may, if it is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of three months.

(2) The Appellate Authority may, after giving an opportunity to the appellant to be heard, if he so desires, and making such further

inquiry as may be necessary, pass such order as it thinks fit, confirming, modifying or annulling the decision or order appealed against:

Provided that an order enhancing any penalty or fine in lieu of confiscation or confiscating goods of greater value shall not be passed—

(a) by an Appellate Collector of Customs;

(b) by the Board unless the appellant has been given a reasonable opportunity of showing cause against the proposed order :

Provided further that where the Appellate Authority is of opinion that any duty of customs has been short-levied, no order enhancing the duty shall be passed unless the appellant is given notice within the time-limit specified in section 28 to show cause against the proposed order.

Deposit,  
pending  
appeal, of  
duty de-  
manded or  
penalty  
levied.

**129.** (1) Where the decision or order appealed against relates to any duty demanded in respect of goods which are not under the control of customs authorities or any penalty levied under this Act, any person desirous of appealing against such decision or order shall, pending the appeal, deposit with the proper officer the duty demanded or the penalty levied:

Provided that where in any particular case the appellate authority is of opinion that the deposit of duty demanded or penalty levied will cause undue hardship to the appellant, it may in its discretion dispense with such deposit, either unconditionally or subject to such conditions as it may deem fit.

(2) If upon any such appeal it is decided that the whole or any portion of such duty or penalty was not leviable, the proper officer shall return to the appellant such amount of duty or penalty as was not leviable.

Powers of  
revision of  
Board.

**130.** (1) The Board may of its own motion or on the application of any aggrieved person call for and examine the record of any proceeding in which an officer of customs has passed any decision or order under this Act (not being an order passed in appeal under section 128) for the purpose of satisfying itself as to the legality or propriety of any such decision or order and may pass such order thereon as it thinks fit:

Provided that no order enhancing any penalty or fine in lieu of confiscation or confiscating goods of greater value shall be passed under this section unless the person affected by the proposed order has been given a reasonable opportunity of showing cause against it:

Provided further that where the Board is of opinion that any duty of customs has not been levied or has been short-levied, no order levying or enhancing the duty shall be made unless the person affected by the proposed order is given notice to show cause against it within the time-limit specified in section 28.

(2) No decision or order passed by an officer of customs shall be revised under this section by the Board of its own motion and no application for the revision of any such decision or order shall be entertained, after the expiry of two years from the date of such decision or order.

131. (1) The Central Government may, on the application of any person aggrieved by—  
Revision by  
Central  
Government.

(a) any order passed under section 128, or

(b) any order passed under section 130 otherwise than on the application of any aggrieved person, or

(c) any order passed on the application of any aggrieved person under section 130 where the order is of the nature referred to in either of the provisos to sub-section (1) of that section,

annul or modify such order.

(2) An application under sub-section (1) shall be made within six months from the date of the communication to the applicant of the order against which the application is being made:

Provided that the Central Government may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the aforesaid period of six months, allow it to be presented within a further period of six months.

(3) The Central Government may of its own motion annul or modify any order passed under section 128 or section 130.

(4) No order enhancing any penalty or fine in lieu of confiscation or confiscating goods of greater value shall be passed under this section—

(a) in any case in which an order passed under section 128 or section 130 has enhanced any penalty or fine in lieu of confiscation or has confiscated goods of greater value; and

(b) in any other case, unless the person affected by the proposed order has been given notice to show cause against it, within one year from the date of the order sought to be annulled or modified.

(5) Where the Central Government is of opinion that any duty of customs has not been levied or has been short-levied, no order levying or enhancing the duty shall be made under this section, unless the person affected by the proposed order is given notice to show cause against it within the time-limit specified in section 28.

## CHAPTER XVI

### OFFENCES AND PROSECUTIONS

False declaration, false documents, etc.

**132.** Whoever makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document in the transaction of any business relating to the customs, knowing or having reason to believe that such declaration, statement or document is false in any material particular, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

Obstruction of officer of customs.

**133.** If any person intentionally obstructs any officer of customs in the exercise of any powers conferred under this Act, such person shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

Refusal to be X-rayed.

**134.** If any person—

(a) resists or refuses to allow a radiologist to screen or to take X-ray picture of his body in accordance with an order made by a magistrate under section 103, or

(b) resists or refuses to allow suitable action being taken on the advice and under the supervision of a registered medical practitioner for bringing out goods liable to confiscation secreted inside his body, as provided in section 103;

he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

Evasion of duty or prohibitions.

**135.** Without prejudice to any action that may be taken under this Act, if any person—

(a) is in relation to any goods in any way knowingly concerned in any fraudulent evasion or attempt at evasion of any duty chargeable thereon or of any prohibition for the time being imposed under this Act or any other law for the time being in force with respect to such goods, or

(b) acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

he shall be punishable.—

(i) in the case of an offence relating to any of the goods to which section 123 applies and the market price whereof exceeds one lakh of rupees, with imprisonment for a term which may extend to five years and with fine:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than six months;

(ii) in any other case, with imprisonment for a term which may extend to two years, or with fine, or with both.

**136.** (1) If any officer of customs enters into or acquiesces in any agreement to do, abstains from doing, permits, conceals or connives at any act or thing whereby any duty of customs leviable on any goods, or any prohibition for the time being in force under this Act or any other law for the time being in force with respect to any goods is or may be evaded, he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(2) If any officer of customs,—

(a) requires any person to be searched for goods liable to confiscation or any document relating thereto, without having reason to believe that he has such goods or document secreted about his person; or

(b) arrests any person without having reason to believe that he has been guilty of an offence punishable under section 135; or

(c) searches or authorises any other officer of customs to search any place without having reason to believe that any goods, documents or things of the nature referred to in section 105 are secreted in that place,

he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(3) If any officer of customs, except in the discharge in good faith of his duty as such officer or in compliance with any requisition made under any law for the time being in force, discloses any particulars learnt by him in his official capacity in respect of any goods, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**137.** (1) No court shall take cognizance of any offence under section 132, section 133, section 134 or section 135, except with the previous sanction of the Collector of Customs.

(2) No court shall take cognizance of any offence under section 136,—

(a) where the offence is alleged to have been committed by

an officer of customs not lower in rank than Assistant Collector of Customs, except with the previous sanction of the Central Government;

(b) where the offence is alleged to have been committed by an officer of customs lower in rank than Assistant Collector of Customs, except with the previous sanction of the Collector of Customs.

Offences to  
be tried  
summarily.

138. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence under this Chapter other than an offence punishable under clause (i) of section 135 may be tried summarily by a magistrate.

Presumption  
as to docu-  
ments in  
certain cases.

139. Where any document is produced by any person under this Act or has been seized under this Act from the custody or control of any person, and such document is tendered by the prosecution in evidence against him, the court shall,—

(a) unless the contrary is proved by any such person, presume—

(i) the truth of the contents of such document;

(ii) that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document executed or attested that it was executed or attested by the person by whom it purports to have been so executed or attested;

(b) admit the document in evidence, notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.

Offences by  
companies.

140. (1) If the person committing an offence under this Chapter 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 Chapter 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 Chapter 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.

## CHAPTER XVII

### MISCELLANEOUS

**141.** All conveyances and goods in a customs area shall, for the purpose of enforcing the provisions of this Act, be subject to the control of officers of customs.

Conveyances  
and goods  
in a customs  
area subject  
to control  
of officers  
of customs.

Recovery of  
sums due to  
Government

**142.** (1) Where any duty demanded from any person or any penalty payable by any person under this Act is not paid,—

(a) the proper officer may deduct or may require any other officer of customs to deduct the amount so payable from any money owing to such person which may be under the control of the proper officer or such other officer of customs; or

(b) the Assistant Collector of Customs may recover or may require any other officer of customs to recover the amount so payable by detaining and selling any goods belonging to such person which are under the control of the Assistant Collector of Customs or such other officer of customs; or

(c) if the amount cannot be recovered from such person in the manner provided in clause (a) or clause (b), the Assistant Collector of Customs may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business and the said Collector on receipt of such certificate shall proceed to recover from the said person the amount specified thereunder as if it were an arrear of land revenue.

(2) Where the terms of any bond or other instrument executed under this Act or any rules or regulations made thereunder provide that any amount due under such instrument may be recovered in the manner laid down in sub-section (1), the amount may, without

prejudice to any other mode of recovery, be recovered in accordance with the provisions of that sub-section.

**Power to allow import or export on execution of bonds in certain cases.**

**143.** (1) Where this Act or any other law requires anything to be done before a person can import or export any goods or clear any goods from the control of officers of customs and the Assistant Collector of Customs is satisfied that having regard to the circumstances of the case, such thing cannot be done before such import, export or clearance without detriment to that person, the Assistant Collector of Customs may, notwithstanding anything contained in this Act or such other law, grant leave for such import, export or clearance on the person executing a bond in such amount, with such surety or security and subject to such conditions as the Assistant Collector of Customs approves, for the doing of that thing within such time after the import, export or clearance as may be specified in the bond.

(2) If the thing is done within the time specified in the bond, the Assistant Collector of Customs shall cancel the bond as discharged in full and shall, on demand, deliver it, so cancelled, to the person who has executed or who is entitled to receive it; and in such a case that person shall not be liable to any penalty provided in this Act or, as the case may be, in such other law for the contravention of the provisions thereof relating to the doing of that thing.

(3) If the thing is not done within the time specified in the bond, the Assistant Collector of Customs shall, without prejudice to any other action that may be taken under this Act or any other law for the time being in force, be entitled to proceed upon the bond in accordance with law.

**Power to take samples.**

**144.** (1) The proper officer may, on the entry or clearance of any goods or at any time while such goods are being passed through the customs area, take samples of such goods in the presence of the owner thereof, for examination or testing, or for ascertaining the value thereof, or for any other purposes of this Act.

(2) After the purpose for which a sample was taken is carried out, such sample shall, if practicable, be restored to the owner, but if the owner fails to take delivery of the sample within three months of the date on which the sample was taken, it may be disposed of in such manner as the Collector of Customs may direct.

(3) No duty shall be chargeable on any sample of goods taken under this section which is consumed or destroyed during the course of any test or examination thereof, if such duty amounts to five rupees or more.

**145.** All operations necessary for making any goods available for examination by the proper officer or for facilitating such examination shall be performed by, or at the expense of, the owner, importer or exporter of the goods, as the case may be.

**146.** (1) No person shall carry on business as an agent relating to the entry or departure of a conveyance or the import or export of goods at any customs-station unless such person holds a licence granted in this behalf in accordance with the regulations.

(2) The Board may make regulations for the purpose of carrying out the provisions of this section and, in particular, such regulations may provide for—

(a) the authority by which a licence may be granted under this section and the period of validity of any such licence;

(b) the form of the licence and the fees payable therefor;

(c) the qualifications of persons who may apply for a licence and the qualifications of persons to be employed by a licensee to assist him in his work as an agent;

(d) the restrictions and conditions (including the furnishing of security by the licensee) subject to which a licence may be granted;

(e) the circumstances in which a licence may be suspended or revoked; and

(f) the appeals, if any, against an order of suspension or revocation of a licence, and the period within which such appeals shall be filed.

**147.** (1) Where this Act requires anything to be done by the owner, importer or exporter of any goods, it may be done on his behalf by his agent.

(2) Any such thing done by an agent of the owner, importer or exporter of any goods shall, unless the contrary is proved, be deemed to have been done with the knowledge and consent of such owner, importer or exporter, so that in any proceedings under this Act, the owner, importer or exporter of the goods shall also be liable as if the thing had been done by himself.

(3) When any person is expressly or impliedly authorised by the owner, importer or exporter of any goods to be his agent in respect of such goods for all or any of the purposes of this Act, such person shall, without prejudice to the liability of the owner, importer or exporter, be deemed to be the owner, importer or exporter of such goods for such purposes:

Provided that where any duty is not levied or is short-levied or erroneously refunded on account of any reason other than any wilful act, negligence or default of the agent, such duty shall not be recovered from the agent unless in the opinion of Assistant Collector of Customs the same cannot be recovered from the owner, importer or exporter.

**Liability of agent appointed by the person in charge of a conveyance.**

**148.** (1) Where this Act requires anything to be done by the person in charge of a conveyance, it may be done on his behalf by his agent.

(2) An agent appointed by the person in charge of a conveyance and any person who represents himself to any officer of customs as an agent of any such person in charge, and is accepted as such by that officer, shall be liable for the fulfilment in respect of the matter in question of all obligations imposed on such person in charge by or under this Act or any law for the time being in force, and to penalties and confiscations which may be incurred in respect of that matter.

**Amendment of documents.**

**149.** Save as otherwise provided in sections 30 and 41, the proper officer may, in his discretion, authorise any document, after it has been presented in the customs house to be amended:

Provided that no amendment of a bill of entry or a shipping bill or bill of export shall be so authorised to be amended after the imported goods have been cleared for home consumption or deposited in a warehouse, or the export goods have been exported, except on the basis of documentary evidence which was in existence at the time the goods were cleared, deposited or exported, as the case may be.

**Procedure for sale of goods and application of sale proceeds.**

**150.** (1) Where any goods not being confiscated goods are to be sold under any provisions of this Act, they shall, after notice to the owner thereof, be sold by public auction or by tender or with the consent of the owner in any other manner.

(2) The proceeds of any such sale shall be applied—

- (a) firstly to the payment of the expenses of the sale,
- (b) next to the payment of the freight and other charges, if any, payable in respect of the goods sold, to the carrier, if notice of such charges has been given to the person having custody of the goods,
- (c) next to the payment of the duty, if any, on the goods sold,
- (d) next to the payment of the charges in respect of the goods sold due to the person having the custody of the goods,
- (e) next to the payment of any amount due from the owner of the goods to the Central Government under the provisions of this Act or any other law relating to customs,

and the balance, if any, shall be paid to the owner of the goods.

**151.** The following officers are hereby empowered and required to assist officers of customs in the execution of this Act, namely:—

Certain officers required to assist officers of customs.

- (a) officers of the Central Excise Department;
- (b) officers of the Navy;
- (c) officers of Police;
- (d) officers of the Central or State Governments employed at any port or airport;
- (e) such other officers of the Central or State Government or a local authority as are specified by the Central Government in this behalf by notification in the Official Gazette.

**152.** The Central Government may, by notification in the Official Gazette, direct that subject to such conditions, if any, as may be of powers specified in the notification—

- (a) any power exercisable by the Board under this Act shall be exercisable also by a Collector of Customs empowered in this behalf by the Central Government;
- (b) any power exercisable by a Collector of Customs under this Act may be exercisable also by a Deputy Collector of Customs or an Assistant Collector of Customs empowered in this behalf by the Central Government;
- (c) any power exercisable by a Deputy Collector of Customs under this Act may be exercisable also by an Assistant Collector of Customs empowered in this behalf by the Central Government;
- (d) any power exercisable by an Assistant Collector of Customs under this Act may be exercisable also by a gazetted officer of customs empowered in this behalf by the Board.

**153.** Any order or decision passed or any summons or notice issued under this Act, shall be served— Service of order, decision, etc.

- (a) by tendering the order, decision, summons or notice or sending it by registered post to the person for whom it is intended or to his agent; or
- (b) if the order, decision, summons or notice cannot be served in the manner provided in clause (a), by affixing it on the notice board of the customs house.

**154.** Clerical or arithmetical mistakes in any decision or order passed by the Central Government, the Board or any officer of customs under this Act, or errors arising therein from any accidental slip or omission may, at any time, be corrected by the Central Government, the Board or such officer of customs or the successor in office of such officer, as the case may be. Correction of clerical errors, etc.

**Protection  
of action  
taken under  
the Act.**

**155.** (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer of the Government or a local authority for anything which is done, or intended to be done in good faith, in pursuance of this Act or the rules or regulations.

(2) No proceeding other than a suit shall be commenced against the Central Government or any officer of the Government or a local authority for anything purporting to be done in pursuance of this Act without giving the Central Government or such officer a month's previous notice in writing of the intended proceeding and of the cause thereof, or after the expiration of three months from the accrual of such cause.

**General  
power to  
make rules.**

**156.** (1) Without prejudice to any power to make rules contained elsewhere in this Act, the Central Government may make rules consistent with this Act generally to carry out the purposes of this Act,

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of determining the nearest ascertainable equivalent of the normal price of any goods;

(b) the conditions subject to which accessories of, and spare parts and maintenance and repairing implements for, any article shall be chargeable at the same rate of duty as that article;

(c) the precautions that shall be taken by the owner, his agent and the person-in-charge of any conveyance or animal for the purposes of sub-section (2) of section 115;

(d) the detention and confiscation of goods the importation of which is prohibited and the conditions, if any, to be fulfilled before such detention and confiscation and the information, notices and security to be given and the evidence requisite for the purposes of such detention or confiscation and the mode of verification of such evidence;

(e) the reimbursement by an informant to any public officer of all expenses and damages incurred in respect of any detention of any goods made on his information and of any proceedings consequent on such detention;

(f) the information required in respect of any goods mentioned in a shipping bill or bill of export which are not exported or which are exported and are afterwards re-landed.

**General  
power to  
make regu-  
lations.**

**157.** (1) Without prejudice to any power to make regulations contained elsewhere in this Act, the Board may make regulations consistent with this Act and the rules, generally to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the form of a bill of entry, shipping bill, bill of export, import manifest, import report, export manifest, export report bill of transhipment, boat note and bill of coastal goods;

(b) the conditions subject to which the transhipment of all or any goods under sub-section (3) of section 54, the transportation of all or any goods under section 56 and the removal of warehoused goods from one warehouse to another under section 67 may be allowed without payment of duty;

(c) the conditions subject to which any manufacturing process or other operations may be carried on in a warehouse under section 65.

**158.** (1) All rules and regulations made under this Act shall be published in the Official Gazette.

Provisions  
with respect  
to rules  
and regula-  
tions.

(2) Any rule or regulation which the Central Government or the Board is empowered to make under this Act may provide—

(i) for the levy of fees in respect of applications, amendment of documents, furnishing of duplicates of documents, issue of certificates, and supply of statistics, and for rendering of any services by officers of customs under this Act;

(ii) that any person who contravenes any provision of a rule or regulation or abets such contravention or any person who fails to comply with any provision of a rule or regulation with which it was his duty to comply, shall be liable,—

(a) in the case of contravention or failure to comply with a rule, to a penalty which may extend to five hundred rupees;

(b) in the case of contravention or failure to comply with a regulation, to a penalty which may extend to two hundred rupees.

**159.** Every rule made under this Act and every notification issued under sections 11, 14, 25, 43, 66, 69, 70, 74, 75, 76, 98, 101 and 123 shall be laid as soon as may be after it is made or issued 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 notification or both Houses agree that the rule should not be made or the notification should not be issued, the rule or notification shall thereafter have effect only in such

Rules and  
certain noti-  
fications to  
be laid  
before Par-  
liament,

modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

**Repeal and  
Savings.**

**160.** (1) The enactments specified in the Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

(2) In the Indian Tariff Act, 1934—

52 of 1934.

(a) for section 2, the following section shall be substituted, namely:—

**Duties  
specified in  
the Sche-  
dules to be  
levied.**

"2. The rates at which duties of customs shall be levied under the Customs Act, 1962, are specified in the First and 52 of 1962. Second Schedules.";

(b) sections 5 and 6 shall stand repealed.

(3) Notwithstanding the repeal of any enactment by this section,—

(a) any notification, rule, regulation, order or notice issued or any appointment or declaration made or any licence, permission or exemption granted or any assessment made, confiscation adjudged or any duty levied or any penalty or fine imposed or any forfeiture, cancellation or discharge of any bond ordered or any other thing done or any other action taken under any repealed enactment shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provision of this Act;

(b) any document referring to any enactment hereby repealed shall be construed as referring to this Act or to the corresponding provision of this Act.

(4) This Act shall apply to all goods which are subject to the control of customs at the commencement of this Act notwithstanding that the goods were imported before such commencement.

(5) Where the period prescribed for any application, appeal, revision or other proceeding under any repealed enactment had expired on or before the commencement of this Act, nothing in this Act shall be construed as enabling any such application, appeal or revision to be made or a proceeding to be instituted under this Act by reason only of the fact that a longer period therefor is prescribed or provision is made for extension of time in suitable cases by the appropriate authority.

(6) The provisions of section 65 shall apply to goods warehoused before the commencement of this Act if the operations permissible under that section were carried on after such commencement.

- (7) Any duty or penalty payable under any repealed enactment may be recovered in a manner provided under this Act but without prejudice to any action already taken for the recovery of such duty or penalty under the repealed enactment.
- (8) The mention of particular matters in sub-sections (4), (5), (6) and (7) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897, with regard to the effect of repeals.
- (9) Nothing in this Act shall affect any law for the time being in force relating to the constitution and powers of any Port authority in a major port as defined in the Indian Ports Act, 1908.

10 of 1897.  
15 of 1908.

**161.** 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 be necessary or expedient for the purpose of removing the difficulty.

Removal of difficulties.

## THE SCHEDULE

(See section 160)

## REPEALS

Year	No.	Short title	Extent of repeal
1	2	3	4
1878	8	The Sea Customs Act	The whole
1896	8	The Inland Bonded Warehouses Act	The whole
1924	19	The Land Customs Act	The whole
1934	22	The Aircraft Act	Section 16,

## THE GIFT-TAX (AMENDMENT) ACT, 1962

No. 53 OF 1962

[13th December, 1962]

An Act further to amend the Gift-tax Act, 1958.

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

1. (1) This Act may be called the Gift-tax (Amendment) Act, Short title and commencement. 1962.  
(2) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint.

In section 2 of the Gift-tax Act, 1958 (hereinafter referred to as the principal Act),— Amendment of section 2.

(a) for clauses (ii), (iii) and (iv), the following clauses shall be substituted, namely,—

(ii) "Appellate Tribunal" means the Appellate Tribunal constituted under section 252 of the Income-tax Act;

(iii) "assessee" means a person by whom gift-tax or any other sum of money is payable under this Act and includes—

(a) every person in respect of whom any proceeding under this Act has been taken for the determination of gift-tax payable by him or by any other person or the amount of refund due to him or such other person;

(b) every person who is deemed to be an assessee under this Act;

(c) every person who is deemed to be an assessee in default under this Act;

(iv) "assessment" includes re-assessment;

(iva) "assessment year" means the period of twelve months commencing on the 1st day of April, every year;—

<sup>1</sup> 1st April, 1963, *vide* Notification No. S.O. 264, dated 21-1-1963, Gazette of India Pt. II, Sec. 3(ii), p. 353.

(b) after clause (v), the following clause shall be inserted, namely:—

‘(va) “charitable purpose” includes relief of the poor, education, medical relief, and the advancement of any other object of general public utility not involving the carrying on of any activity for profit;’;

(c) after clause (vii), the following clause shall be inserted. namely:—

‘(viiia) “Director of Inspection” includes an Additional Director of Inspection, a Deputy Director of Inspection and an Assistant Director of Inspection;’;

(d) for clause (xiv), the following clause shall be substituted, namely:—

‘(xiv) “Income-tax Act” means the Income-tax Act, 43 of 1961, 1961;’;

(e) after clause (xvi), the following clauses shall be inserted, namely:—

‘(xviia) “Inspector of Gift-tax” means an Inspector of Income-tax empowered to work as an Inspector of Gift-tax under section 11;

‘(xvib) “legal representative” has the meaning assigned to it in clause (11) of section 2 of the Code of Civil Procedure, 1908;’;

5 of 1908

(f) in clause (xx)—

(i) in sub-clause (b), for the words, brackets, letters and figures “under sub-clause (a) of clause (11) of section 2 of the Income-tax Act or such period determined as the previous year under sub-clause (b) of clause (11) of that section, whichever expired last”, the words, brackets, letters and figures “under sub-clause (a) or sub-clause (b), as the case may be, of sub-section (1) of section 3 of the Income-tax Act or such period determined as the previous year under clause (c) of that sub-section, whichever expired last” shall be substituted;

(ii) in sub-clause (c), for the words, brackets and figures “clause (11) of section 2”, the word and figure “section 3” shall be substituted.

**Amendment  
of section 3.** 3. In section 3 of the principal Act, for the words “financial year”, the words “assessment year” shall be substituted.

Amendment  
of section 5.

## 4. In section 5 of the principal Act,—

(i) in sub-section (1), in clause (v), for the word, figures and letter "section 15B", the word and figures "section 88" shall be substituted;

(ii) in the *Explanation*, in clause (a), for the words "in the taxable territories within the meaning of the Income-tax Act", the following shall be substituted, namely:—

"within the meaning of section 6 of the Income-tax Act, subject to the modification that references in that section to India shall be construed as references to the territories to which this Act extends".

## 5. After section 7 of the principal Act, the following section shall be inserted, namely:—

Insertion  
of new  
section 7A.

"7A. (1) Notwithstanding anything contained in section 7, the Commissioner may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, transfer any case from one Gift-tax Officer subordinate to him to another also subordinate to him, and the Board may similarly transfer any case from one Gift-tax Officer to another:

Power to  
transfer  
cases.

Provided that nothing in this sub-section shall be deemed to require any such opportunity to be given where the transfer is from one Gift-tax Officer to another whose offices are situated in the same city, locality or place.

(2) The transfer of a case under sub-section (1) may be made at any stage of the proceedings, and shall not render necessary the re-issue of any notice already issued by the Gift-tax Officer from whom the case is transferred.

*Explanation.*—In this section the word 'case' in relation to any person whose name is specified in any order issued thereunder means all proceedings under this Act in respect of any year which may be pending on the date of such order, or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order in respect of any year."

## 6. After section 9 of the principal Act, the following section shall be inserted, namely:—

Insertion  
of new  
section 9A.

"9A. (1) The Board may empower as many persons as it thinks fit to exercise under this Act the functions of a Director of Inspection.

Directors  
of Inspec-  
tion.

(2) A Director of Inspection shall be competent to make any enquiry under this Act and for this purpose, shall have all the powers that a Gift-tax Officer has under this Act in relation to the making of enquiries.

(3) Without prejudice to the provisions of sub-section (2), a Director of Inspection shall exercise such other functions of any Gift-tax authority as may be assigned to him by the Board.”.

**7.** For section 11 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for section 11.

Inspector of Gift-tax.

Control of Gift-tax authorities

‘11. A Commissioner of Gift-tax may empower any Inspector of Income-tax to work as an Inspector of Gift-tax under any Gift-tax authority, and when he is so empowered, he shall perform such functions in the execution of this Act as are assigned to him by the said Gift-tax authority.

11A. (1) Inspecting Assistant Commissioners shall be subordinate to the Commissioner within whose jurisdiction they perform their functions and also to the Director of Inspection.

(2) Gift-tax Officers shall be subordinate to the Commissioner and the Inspecting Assistant Commissioner within whose jurisdiction they perform their functions and also to the Director of Inspection.

(3) Inspectors of Gift-tax shall be subordinate to the Gift-tax Officers or other Gift-tax authority under whom they are empowered to work and to any other Gift-tax authority to whom the said officer or other authority is subordinate.

*Explanation.*—For the purposes of sub-section (1), “Director of Inspection” does not include a Deputy Director of Inspection or an Assistant Director of Inspection and for the purposes of sub-section (2), “Director of Inspection” does not include an Assistant Director of Inspection.”.

Amend-  
ment of  
section 12.

**8.** Section 12 of the principal Act shall be re-numbered as sub-section (1) thereof and after the sub-section so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Every Gift-tax Officer employed in the execution of this Act shall observe and follow such instructions as may be issued to him for his guidance by the Director of Inspection or by the Commissioner or by the Inspecting Assistant Commissioner within whose jurisdiction he performs his functions.”.

**9.** In Chapter III of the principal Act, after section 12, the following section shall be inserted, namely:—

Insertion  
of new  
section  
12A.

“12A. The Commissioner of Gift-tax and the Inspecting Assistant Commissioner of Gift-tax shall be competent to make any enquiry under this Act and for this purpose, shall have all the powers that a Gift-tax Officer has under this Act in relation to the making of enquiries.”

Power of  
Commissioner of  
Gift-tax  
and of  
Inspecting  
Assistant  
Commissioner of  
Gift-tax  
to make  
enquiries  
under this  
Act.

Amend-  
ment of  
section 13.

**10.** In section 13 of the principal Act,—

(i) in sub-section (1), after the words “taxable gifts”, the words “or is assessable in respect of the taxable gifts made by any other person under this Act” shall be inserted;

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) In the case of any person who, in the Gift-tax Officer’s opinion, is assessable under this Act whether in respect of the gifts made by him or by any other person during the previous year, the Gift-tax Officer may, before the end of the relevant assessment year, serve a notice upon him requiring him to furnish within thirty days from the date of service of the notice a return of the gifts made by him or by such other person during the previous year in the prescribed manner and setting forth such other particulars as may be prescribed.”

**11.** After section 14 of the principal Act, the following section shall be inserted, namely:—

Insertion  
of new sec-  
tion 14A.

“14A. The return made under section 13 or section 14 shall be signed and verified—

Return by  
whom to  
be signed.

(a) in the case of an individual, by the individual himself; where the individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf; and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(b) in the case of a Hindu undivided family, by the Karta, and, where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family;

- (c) in the case of a company, by the principal officer thereof;
- (d) in the case of a firm, by any partner thereof, not being a minor;
- (e) in the case of any other association, by any member of the association or the principal officer thereof; and
- (f) in the case of any other person, by that person or by some person competent to act on his behalf.”.

**Amend-  
ment of  
section 15.**

12. In section 15 of the principal Act,—

- (i) in sub-section (1),—

- (a) for the words “is complete”, the words “is correct and complete” shall be substituted;
- (b) for the words “and determine the amount payable by him as gift-tax”, the words “and determine the amount of gift-tax payable by him or the amount refundable to him on the basis of such return” shall be substituted;
- (ii) in sub-section (3), after the words “any specified points”, the words “and after taking into account all relevant material which the Gift-tax Officer has gathered” shall be inserted;
- (iii) in sub-section (5), after the words “the Gift-tax Officer”, the words “after taking into account all relevant material which he has gathered” shall be inserted.

**Amend-  
ment of  
section 16**

13. In section 16 of the principal Act, in sub-section (1), for clause (a), the following clause shall be substituted, namely:—

“(a) has reason to believe that by reason of the omission or failure on the part of the assessee to make a return under section 13 of the gifts made by him or any other person in respect of which he is assessable under this Act for any assessment year, or to disclose fully and truly all material facts necessary for assessment of the gifts made by him or such other person for that year any taxable gift has escaped assessment for that year, whether by reason of under-assessment or assessment at too low a rate or otherwise; or”.

**Substitu-  
tion of new  
section for  
section 17.**

**Penalty  
for failure  
to furnish  
returns, &c**

14. For section 17 of the principal Act, the following section shall be substituted, namely:—

“17. (1) If the Gift-tax Officer, Appellate Assistant Commissioner, Commissioner or Appellate Tribunal, in the course of any proceedings under this Act, is satisfied that any person—

- (a) has without reasonable cause failed to furnish the return required to be furnished under sub-section (1) of section 13 or by notice given under sub-section (2) of section 13 or section 16 or has, without reasonable cause, failed to furnish it within the time allowed and in the manner required by sub-section (1) of section 13 or by such notice, as the case may be; or
- (b) has without reasonable cause failed to comply with a notice under sub-section (2) or sub-section (4) of section 15; or
- (c) has concealed the particulars of any gift or deliberately furnished inaccurate particulars thereof, he or it may, by order in writing, direct that such person shall pay by way of penalty—
- (i) in the cases referred to in clause (a), in addition to the amount of gift-tax payable by him, a sum equal to two per cent. of the tax for every month during which the default continued, but not exceeding in the aggregate fifty per cent. of the tax;
- (ii) in the cases referred to in clause (b), in addition to the amount of gift-tax payable by him, a sum which shall not be less than ten per cent. but which shall not exceed fifty per cent. of the amount of the tax, if any, which would have been avoided if the return made by such person had been accepted as correct;
- (iii) in the cases referred to in clause (c), in addition to any gift-tax payable by him, a sum which shall not be less than twenty per cent. but which shall not exceed one and half times the amount of the tax, if any, which would have been avoided if the return made by such person had been accepted as correct.
- (2) No order imposing a penalty under sub-section (1) shall be made unless the assessee has been heard or has been given a reasonable opportunity of being heard.
- (3) Notwithstanding anything contained in clause (iii) of sub-section (1), if in a case falling under clause (c) of that sub-section, the minimum penalty imposable exceeds a sum of rupees one thousand, the Gift-tax Officer shall refer the case to the Inspecting Assistant Commissioner who shall, for the purpose, have all the powers conferred under this section for the imposition of penalty.
- (4) An Appellate Assistant Commissioner, Commissioner or the Appellate Tribunal, on making an order under this section

Comply  
notices and  
conceal-  
ment of  
gifts, etc.

imposing penalty, shall forthwith send a copy of the same to the Gift-tax Officer.”.

**Insertion  
of new sec-  
tion 19A.**

**Assessment  
of persons  
leaving  
India:**

**15.** After section 19 of the principal Act, the following section shall be inserted, namely:—

“19A. (1) Notwithstanding anything contained in section 3, when it appears to the Gift-tax Officer that any individual may leave India during the current assessment year or shortly after its expiry and that he has no present intention of returning to India, the gifts made by such individual during the period from the expiry of the previous year for that assessment year up to the probable date of his departure from India, shall be chargeable to gift-tax in that assessment year.

(2) The taxable gifts made in each completed previous year or part of any previous year included in such period shall be chargeable to gift-tax at the rate or rates specified in the Schedule, and separate assessments shall be made in respect of each such completed previous year or part of any previous year.

(3) The Gift-tax Officer may estimate the value of the gifts made by such individual during such period or any part thereof, where it cannot be readily determined in the manner provided in this Act.

(4) For the purpose of making an assessment under sub-section (1), the Gift-tax Officer may serve a notice upon such individual requiring him to furnish, within such time, not being less than seven days, as may be specified in the notice, a return in the same form and verified in the same manner as a return under sub-section (2) of section 13, giving particulars of the gifts made by him during each completed previous year comprised in the period referred to in sub-section (1) and during any part of the previous year comprised in that period; and the provisions of this Act shall, so far as may be, and subject to the provisions of this section, apply as if the notice were a notice issued under sub-section (2) of section 13.

(5) The gift-tax chargeable under this section shall be in addition to the tax, if any, chargeable under any other provision of this Act.

(6) Where the provisions of sub-section (1) are applicable, any notice issued by the Gift-tax Officer under sub-section (2) of section 13 or under section 16 in respect of any gift-tax chargeable under any other provisions of this Act may, notwithstanding anything contained in sub-section (2) of section 13 or section 16, as the case may be, require the furnishing of the return by such individual within such period, not being less than seven days, as the Gift-tax Officer may think proper.”.

16. In Chapter V of the principal Act, after section 21, the following section shall be inserted, namely:—

“21A. (1) Where a Gift-tax Officer after using all due and reasonable diligence cannot find the donor who has made any taxable gifts, for the purpose of service of notice under sub-section (2) of section 13 or under section 16, the Gift-tax Officer may make an assessment of the value of all such taxable gifts made by him and determine the gift-tax payable by him and for this purpose may, by the issue of the appropriate notice which would have had to be served upon the donor, require from the donee or donees any accounts, documents or other evidence which might, under the provisions of section 15, have been required from the donor.

(2) Where any assessment in respect of the taxable gifts made by the donor has been made under sub-section (1), every donee shall be liable for the gift-tax so assessed:

Provided that where the donees are more than one, they shall be jointly and severally liable for the amount of the gift-tax so assessed:

Provided further that the amount of the gift-tax which may be recovered from each donee shall not exceed the value of the gift made to him as on the date of the gift.

(3) The provisions of sections 13, 14 and 16 shall apply to a donee as they apply to any person referred to in those sections.”.

17. In section 22 of the principal Act,—

(i) in sub-section (1)—

(a) in clause (a), the word “his” shall be omitted;

(b) in clause (f)—

(1) for the words, brackets and figures “sub-section (1) of section 46 of the Income-tax Act”, the words, brackets and figures “sub-section (1) of section 221 of the Income-tax Act” shall be substituted;

(2) the word “or” shall be added at the end;

(c) after clause (f), the following clauses shall be inserted, namely:—

“(g) objecting to an order of the Gift-tax Officer under section 34 having the effect of enhancing the assessment or reducing a refund or an order refusing to allow the claim made by the assessee under that section;

or

Amend-  
ment of  
section 22.

Insertion  
of new  
sections  
21A.

Assess-  
ment of  
donee  
when  
donor can  
not be  
found.

(h) objecting to any fine imposed by the Gift-tax Officer under sub-section (2) of section 36;";

(ii) after sub-section (5), the following sub-sections shall be inserted, namely:—

"(5A) In disposing of an appeal, the Appellate Assistant Commissioner may consider and decide any matter arising out of the proceedings in which the order appealed against was passed, notwithstanding that such matter was not raised before the Appellate Assistant Commissioner by the appellant.

(5B) The order of the Appellate Assistant Commissioner disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision."

Amend-  
ment of  
section 23.

18. In section 23 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) An assessee, objecting to an order passed by the Appellate Assistant Commissioner under section 17 or section 22 or sub-section (2) of section 36 or to an order passed by the Inspecting Assistant Commissioner under sub-section (3) of section 17, may appeal to the Appellate Tribunal within sixty days of the date on which the order is communicated to him.";

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) The Gift-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 (1) or sub-section (2).";

(iii) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) 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 (1) or sub-section (2) or sub-section (2A) if it is satisfied that there was sufficient cause for not presenting it within that period.”;

(iv) in sub-section (11), for the words, brackets, figures and letter “sub-sections (5), (7) and (8) of section 5A of the Income-tax Act”, the words, brackets and figures “sub-sections (1), (4) and (5) of section 255 of the Income-tax Act” shall be substituted.

**19.** In section 24 of the principal Act, to sub-section (3), the following *Explanation* shall be added, namely:— Amend-  
ment of  
section 24.

“*Explanation.*—In computing the period of limitation for purposes of this sub-section, the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 38 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.”.

**20.** In section 25 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:— Amend-  
ment of  
section 25.

“(1) An assessee objecting to an order passed by the Commissioner under section 17 or to an order of enhancement passed by him under section 24 may appeal to the Appellate Tribunal within sixty days of the date on which the order is communicated to him.”.

**21.** In section 26 of the principal Act,— Amend-  
ment of  
section 26.

(i) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

“(1) The assessee or the Commissioner may, within sixty days of the date upon which he is served with notice of an order under section 23 or section 25, by application in the prescribed form, accompanied, where the application is made by the assessee, by a fee of rupees one hundred require the Appellate Tribunal to refer to the High Court any question of law arising out of such order and, subject to the other provisions contained in this section, the Appellate Tribunal shall, within one hundred and twenty days of the receipt of such application, draw up a statement of the case and refer it to the High Court.

(2) The Appellate Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the period specified in sub-section (1), allow it to be presented within a further period not exceeding thirty days.”;

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

“(3A) If, on an application made under this section, the Appellate Tribunal is of the opinion that on account of a conflict in the decisions of High Courts in respect of any particular question of law, it is expedient that a reference should be made direct to the Supreme Court, the Appellate Tribunal may draw up a statement of the case and refer it through its President direct to the Supreme Court.”;

(iii) in sub-sections (4), (5) and (6), after the words “High Court”, the words “or the Supreme Court” shall be inserted;

(iv) for sub-sections (7), (8) and (9), the following sub-section shall be substituted, namely:—

“(7) The cost of any reference to the High Court or the Supreme Court which shall not include the fee for making the reference shall be in the discretion of the Court.”.

**22.** In Chapter VI of the principal Act, after section 28, the following sections shall be inserted, namely:—

Insertion  
of new  
sections  
28A and  
28B.

Tax to be  
paid not-  
withstanding  
reference, etc.

Definition  
of High  
Court.

‘28A. Notwithstanding that a reference has been made to the High Court or the Supreme Court or an appeal has been preferred to the Supreme Court, tax shall be payable in accordance with the assessment made in the case.

28B. In this Chapter, “High Court” means—

(i) in relation to any State, the High Court of that State;

(ii) in relation to the Union territories of Delhi and Himachal Pradesh, the High Court of Punjab;

(iii) in relation to the Union territories of Manipur and Tripura, the High Court of Assam;

(iv) in relation to the Union territory of Andaman and Nicobar Islands, the High Court at Calcutta;

(v) in relation to the Union territory of Laccadive, Minicoy and Amindivi Islands, the High Court of Kerala.’.

**23.** For section 29 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 29.

“29. Subject to the provisions of this Act, gift-tax shall be payable by the donor but when in the opinion of the Gift-tax Officer the tax cannot be recovered from the donor, it may be recovered from the donee:

Provided that where the donees are more than one, they shall be jointly and severally liable for the amount of tax determined to be payable by the donor:

Provided further that the amount of tax which may be recovered from each donee shall not exceed the value of the gift made to him as on the date of the gift.”

**24.** For sections 31, 32 and 33 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 31, 32 and 33.

Notice of demand.

“31. When any tax, interest, penalty, fine or any other sum is payable in consequence of any order passed under this Act, the Gift-tax Officer shall serve upon the assessee a notice of demand in the prescribed form specifying the sum so payable.

32. (1) Any amount specified as payable in a notice of demand under section 31 shall be paid within thirty-five days of the service of the notice at the place and to the person mentioned in the notice:

Provided that, where the Gift-tax Officer has any reason to believe that it will be detrimental to revenue if the full period of thirty-five days aforesaid is allowed, he may, with the previous approval of the Inspecting Assistant Commissioner, direct that the sum specified in the notice of demand shall be paid within such period being a period less than the period of thirty-five days aforesaid, as may be specified by him in the notice of demand.

(2) If the amount specified in any notice of demand under section 31 is not paid within the period limited under sub-section (1), the assessee shall be liable to pay simple interest at four per cent. per annum from the day commencing after the end of the period mentioned in sub-section (1).

(3) Without prejudice to the provisions contained in sub-section (2), on an application made by the assessee before the expiry of the due date under sub-section (1), the Gift-tax Officer may extend the time for payment or allow payment by instal-

ments subject to such conditions as he may think fit to impose in the circumstances of the case.

(4) If the amount is not paid within the time limited under sub-section (1) or extended under sub-section (3), as the case may be, at the place and to the person mentioned in the said notice, the assessee shall be deemed to be in default.

(5) If, in a case where payment by instalments is allowed under sub-section (3), the assessee commits default in paying any one of the instalments within the time fixed under that sub-section, the assessee shall be deemed to be in default as to the whole of the amount then outstanding, and the other instalment or instalments shall be deemed to have been due on the same date as the instalment actually in default.

(6) Where the assessee has presented an appeal under section 22, the Gift-tax Officer may in his discretion and subject to such conditions as he may think fit to impose in the circumstances of the case, treat the assessee as not being in default in respect of the amount in dispute in the appeal, even though the time for payment has expired as long as such appeal remains undisposed of.

Mode of recovery.

33. The provisions contained in sections 221 to 227, 229, 231 and 232 of the Income-tax Act and the Second and Third Schedules to that Act and any rules made thereunder shall, so far as may be, apply as if the said provisions were provisions of this Act and referred to gift-tax and sums imposed by way of penalty, fine and interest under this Act instead of to income-tax and sums imposed by way of penalty, fine and interest under that Act and to Gift-tax Officer and Commissioner of Gift-tax instead of to Income-tax Officer and Commissioner of Income-tax.

*Explanation I.*—Any reference to sub-section (2) or sub-section (6) of section 220 of the Income-tax Act in the said provisions of that Act or the rules made thereunder shall be construed as references to sub-sections (2) and (6) respectively of section 32 of this Act.

*Explanation II.*—The Tax Recovery Officer and the Tax Recovery Commissioner referred to in the Income-tax Act or the rules made thereunder shall be deemed to be the Tax Recovery Officer and the Tax Recovery Commissioner for the purposes of recovery of gift-tax and sums imposed by way of penalty, fine and interest under this Act.”

25. After Chapter VII of the principal Act, the following Chapter shall be inserted, namely:—

Insertion  
of new  
Chapter  
VIIA.

## "CHAPTER VIIA

### REFUNDS

33A. (1) Where, as a result of any order passed in appeal or other proceeding under this Act, refund of any amount becomes due to the assessee the Gift-tax Officer shall, except as otherwise provided in this Act, refund the amount to the assessee without his having to make any claim in that behalf.

(2) Where an order giving rise to a refund is the subject matter of an appeal or further proceeding or where any other proceeding under this Act is pending, and the Gift-tax Officer is of the opinion that the grant of refund is likely to adversely affect the revenue, the Gift-tax Officer may, with the previous approval of the Commissioner withhold the refund till such time as the Commissioner may determine.

(3) Where a refund is due to the assessee in pursuance of an order referred to in sub-section (1) and the Gift-tax Officer does not grant the refund with a period of six months from the date of such order, the Central Government shall pay to the assessee simple interest at four per cent. per annum on the amount of refund due from the date immediately following the expiry of the period of six months aforesaid to the date on which the refund is granted.

(4) Where a refund is withheld under the provisions of sub-section (2), the Central Government shall pay interest at the aforesaid rate on the amount of refund ultimately determined to be due as a result of the appeal or further proceedings for a period commencing after the expiry of six months from the date of the order referred to in that sub-section to the date the refund is granted.

(5) Where under any of the provisions of this Act, a refund is found to be due to any person, the Gift-tax Officer, Appellate Assistant Commissioner or Commissioner, as the case may be may, in lieu of payment of the refund, set off the amount to be refunded or any part of that amount, against the sum, if any remaining payable under this Act by the person to whom the refund is due, after giving an intimation in writing to such person of the action proposed to be taken under this section."

Substitution of new section for section 34.

Rectification of mistakes.

26. For section 34 of the principal Act, the following section shall be substituted, namely:—

“34. (1) With a view to rectifying any mistake apparent from the record—

(a) the Gift-tax Officer may amend any order of assessment or of refund or any other order passed by him;

(b) the Appellate Assistant Commissioner may amend any order passed by him under sub-section (1) of section 17 or under section 22;

(c) the Inspecting Assistant Commissioner may amend any order passed by him under sub-section (3) of section 17;

(d) the Commissioner may amend any order passed by him under sub-section (1) of section 17 or under section 24;

(e) the Appellate Tribunal may amend any order passed by it under sub-section (1) of section 17 or section 23 or section 25.

(2) Subject to other provisions of this section, the authority concerned—

(a) may make an amendment under sub-section (1) of its own motion; and

(b) shall make such amendment for rectifying any such mistake which has been brought to its notice by the assessee, and where the authority concerned is the Appellate Assistant Commissioner or the Appellate Tribunal by the Gift-tax Officer also.

(3) An amendment, which has the effect of enhancing an 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.

(4) Where an amendment is made under this section, an order shall be passed in writing by the Gift-tax authority concerned.

(5) Subject to the provisions of sub-section (2) of section 33, where any such amendment has the effect of reducing the assessment, the Gift-tax Officer shall make any refund which may be due to such assessee.

(6) Where any such amendment has the effect of enhancing the assessment or reducing a refund already made, the Gift-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 31 and the provisions of this Act shall apply accordingly.

(7) No amendment under this section shall be made after the expiry of four years from the date of the order sought to be amended.”.

**27. In section 35 of the principal Act,—**

Amendment  
of section 35.

(i) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) If a person abets or induces in any manner another person to make and deliver an account, statement or declaration relating to any gifts chargeable to tax which is false and which he either knows to be false or does not believe to be true, he shall, on conviction before a Magistrate, be punishable with simple imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.”;

(ii) for the *Explanation*, the following *Explanation* shall be substituted, namely:—

“*Explanation*.—For the purposes of this section, ‘Magistrate’ means a Presidency Magistrate or a Magistrate of the first class.”.

**28. For section 36 of the principal Act, the following section shall be substituted, namely:—**

Substitution  
of new  
section for  
section 36.

“36. (1) The Gift-tax Officer, the Appellate Assistant Commissioner, the Commissioner and the Appellate Tribunal shall, for the purposes of this Act, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:—

Power re-  
garding  
discovery,  
production  
of evidence  
etc.

- (a) discovery and inspection;
- (b) enforcing the attendance of any person, including any officer of a banking company and examining him on oath;
- (c) compelling the production of books of account and other documents; and
- (d) issuing commissions.

(2) Without prejudice to the provisions of any other law for the time being in force, where a person to whom a summons is issued either to attend to give evidence or produce books of account or other documents at a certain place and time, intentionally omits to attend or produce the books of account or document at the place or time, the authority empowered to issue such summons may impose upon him such fine not exceeding five hundred rupees as it thinks fit, and fine so levied may be recovered in the manner provided in Chapter VII.”.

Amend-  
ment of  
section 38.

29. To section 38 of the principal Act, the following proviso shall be added, namely:—

“Provided that the assessee concerned may demand that before the proceeding is so continued the previous proceeding or any part thereof be reopened or that before any order of assessment is passed against him, he be reheard.”.

Substitu-  
tion of new  
section for  
section 39.

30. For section 39 of the principal Act, the following section shall be substituted, namely:—

Compu-  
tation of  
period of  
limitation.

“39. In computing the period of limitation prescribed for an appeal or an application under this Act, the day on which the order complained of was served and if the assessee was not furnished with a copy of the order when the notice of the order was served upon him, the time requisite for obtaining a copy of such order, shall be excluded.”.

Amend-  
ment of  
section 40.

31. In section 40 of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely:—

“(3) After a finding of total partition has been recorded by the Gift-tax Officer under section 20 in respect of any Hindu family, notices under this Act in respect of the gifts made by the family shall be served on the person who was the last manager of the Hindu family, or if such person is dead, then on all surviving adults who were members of the Hindu family immediately before the partition.

(4) Where a firm or other association of persons is dissolved, notices under this Act in respect of the gifts made by the firm or association may be served on any person who was a partner (not being a minor) or member of the association, as the case may be, immediately before its dissolution.”.

32. For section 41 of the principal Act, the following section shall be substituted, namely:—

“41. The provisions of sections 137 and 280 of the Income-tax Act shall apply to the disclosure of particulars contained in all accounts or in relation to statements, documents, evidence or affidavits given, produced or obtained in connection with or in the course of any proceedings under this Act, as they apply to or in relation to similar particulars under that Act, subject to the modification that the reference to any income-tax authority in clause (iv) of sub-section (3) of section 137 of that Act shall be construed as a reference to any Gift-tax authority.”.

33. In section 41A of the principal Act, in sub-section (3), after clause (i), the following clause shall be inserted, namely:—

“(iu) in the case of an assessee mentioned in clause (a) of sub-section (1) or in clause (b) of sub-section (2), who presented an appeal under sub-section (1) of section 23 against the order of penalty passed by the Inspecting Assistant Commissioner under sub-section (3) of section 17, until the appeal is disposed of by the Appellate Tribunal;”.

34. For section 43 of the principal Act, the following section shall be substituted, namely:—

“43. An assessee who is entitled to or required to attend before any Gift-tax authority or the Appellate Tribunal in connection with any proceeding under this Act, except where he is required under this Act to attend in person, may attend by a person who would be entitled to represent him before any Income-tax authority or the Appellate Tribunal under section 288 of the Income-tax Act.”.

35. In section 45 of the principal Act, in clause (e), for the words, brackets and figures “clause (i) of sub-section (3) of section 4”, the word and figure “section 11” shall be substituted.

36. In section 46 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) The Central Government shall cause every rule made under this Act 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

Substitution of new section for section 41.

Prohibition of disclosure of information.

Amendment of section 41A.

Substitution of new section for section 43.

Appearance before Gift-tax authorities by authorised representatives.

Amendment of section 45.

Amendment of section 46.

which it is so laid or the session immediately following, both Houses agree in making any modifications 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.”

# THE TAXATION LAWS (AMENDMENT) ACT, 1962

No. 54 OF 1962

[13th December, 1962]

An Act further to amend the Income-tax Act, 1961 and the Wealth-tax Act, 1957.

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

1. This Act may be called the Taxation Laws (Amendment) Act, short title, 1962.

43 of 1961. 2. In section 2 of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act), in clause (14), after sub-clause (iii), the following sub-clause shall be inserted, namely:—

Amend-  
ment of  
section 2

“(iv) 6½ per cent. Gold Bonds, 1977 issued by the Central Government;”.

3. In section 88 of the Income-tax Act,—

Amend-  
ment of  
section 88

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Subject to the provisions of this section, the assessee shall be entitled to a deduction from the amount of income-tax on his total income with which he is chargeable for any assessment year of an amount equal to the income-tax calculated at the average rate of income-tax on any sums paid by him in the previous year—

(i) as donations to the National Defence Fund set up by the Central Government; or

(ii) as donations to any other fund or any institution to which this section applies; or

(iii) as donations to Government or to any local authority made on or after the 1st April, 1960, to be utilised for any charitable purpose.”;

(ii) in sub-section (3), after the existing proviso, the following proviso shall be inserted, namely:—

“Provided further that where any sum paid during the previous year includes any donation to the National Defence Fund set up by the Central Government the amount covered by that donation shall be excluded in calculating the limits specified in this sub-section.”;

(iii) in sub-section (5), for the words “only to donations to an institution or fund established in India for a charitable purpose which”, the following shall be substituted, namely:—

“to donations to any institution or fund referred to in clause (ii) of sub-section (1), only if it is established in India for a charitable purpose and if it”.

*Amend-  
ment of  
section 193.*

4. To section 193 of the Income-tax Act, the following proviso shall be added, namely:—

“Provided that no tax shall be deducted from any interest payable on 4½ per cent. National Defence Bonds, 1972 or 6½ per cent. Gold Bonds, 1977, where any such Bonds are held by an individual, not being a non-resident, and in the case of the Gold Bonds, the holder thereof makes a declaration in writing before the person responsible for paying the interest that the total nominal value of the Gold Bonds held by him including the Gold Bonds, if any, held on his behalf by any other person did not exceed ten thousand rupees at any time during the period to which the interest relates.”

*Amend-  
ment of  
section 5  
of Act 27  
of 1957.*

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

(i) in sub-section (1), after clause (xvi), the following clause shall be inserted, namely:—

“(xvia) 6½ per cent. Gold Bonds, 1977;”;

(ii) in sub-section (2), for the word, brackets and figures “clause (xvi)”, the words, brackets and figures “clause (xvi) or clause (xvia)” shall be substituted.

## THE MANIPUR (SALES OF MOTOR SPIRIT AND LUBRICANTS) TAXATION ACT, 1962

### ARRANGEMENT OF SECTIONS

#### SECTIONS

1. Short title, extent and commencement.
2. Definitions.
3. Levy of tax.
4. Taxing authorities.
5. Registration of dealers.
6. Cancellation of registration certificate.
7. Returns.
8. Assessment.
9. Cancellation of assessment.
10. Assessment and penalty in case of evasion by unregistered persons.
11. Assessment and penalty in case of evasion by registered persons.
12. Power to grant exemption from tax.
13. Penalties.
14. Appeal.
15. Powers of revision of Commissioner.
16. Revision by the Chief Commissioner.
17. Payment of tax, etc.
18. Recoveries.
19. Refunds.
20. Maintenance of accounts.
21. Powers to order production of accounts, etc.
22. Power for entry, inspection, search and seizure.
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24. False statement in declaration.

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SECTIONS

25. Search and seizure how made.
26. Power of investigation.
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28. Things liable to confiscation.
29. Power to compound offences.
30. Cognizance of offence.
31. Protection of persons acting in good faith and limitation of  
suits and proceedings.
32. Delegation of Commissioner's powers.
33. Computation of the period of limitation.
34. Information to be furnished regarding change of business.
35. Services of order, notices, etc.
36. Power to make rules.
37. Repeal of Assam Act 4 of 1939 as extended to Manipur.

THE MANIPUR (SALES OF MOTOR SPIRIT AND  
LUBRICANTS) TAXATION ACT, 1962

No. 55 OF 1962

[13th December, 1962]

An Act to consolidate and amend the law relating to the levy of tax on sales of motor spirit and lubricants in the Union territory of Manipur.

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

1. (1) This Act may be called the Manipur (Sales of Motor Spirit and Lubricants) Taxation Act, 1962.

Short title,  
extent and  
commencement.

(2) It extends to the whole of the Union territory of Manipur.

(3) It shall come into force on such date as the Chief Commissioner may, by notification in the Official Gazette, appoint.

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

Definitions.

(a) "Chief Commissioner" means the Chief Commissioner of Manipur;

(b) "Commissioner" means the Commissioner appointed under section 4;

(c) "crude oil" means petroleum in its natural state;

(d) "dealer" means any person who sells taxable goods manufactured, made or processed by him in, or brought by him into, the Union territory from any place outside that territory for the purpose of sale in that territory;

*Explanation:* The manager or agent of a dealer who resides outside the Union territory and sells taxable goods brought by him into that territory from any place outside that territory, shall, in respect of such business, be a dealer for the purposes of this Act;

(e) "lubricant" means any form of oil or other lubricating substance primarily used for lubricating the internal machinery or the external parts and fittings of motor vehicles, stationary internal combustion engines, steam turbines or engines, power pumps, refrigerators, dynamos and other machinery and shall include all forms of greases, mineral jellies, spindle oils, cutting oils and hydraulic brake fluids;

(f) "motor spirit" means any substance which by itself or in admixture with other substances is ordinarily used directly or indirectly to provide reasonably efficient fuel for automotive or stationary internal combustion engines, and includes petrol, diesel oil and other internal combustion oils but does not include kerosene, furnace oil, coal or charcoal;

(g) "person" includes a Department of Government and a Hindu Joint Family;

(h) "petrol" means dangerous petroleum as defined in the Petroleum Act, 1934;

30 of 1934.

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

(j) "sale" with all its grammatical variations and cognate expressions, means any transfer of property in goods by one person to another for cash or deferred payment or any other valuable consideration;

(k) "taxable goods" means such goods as are specified in sub-section (1) of section 3;

(l) "Union territory" means the Union territory of Manipur.

**Levy of tax.**

3. (1) There shall be levied and collected from every dealer a tax on all sales effected by him of the following goods at such rates as may be fixed by the Central Government, from time to time, by

notification in the Official Gazette, not exceeding the rates specified below:—

- |                                                                                      |                             |
|--------------------------------------------------------------------------------------|-----------------------------|
| (i) motor spirit (except diesel oil and internal combustion oils other than petrol). | eight naye paise per litre. |
| (ii) lubricant.                                                                      | nine naye paise per litre.  |
| (iii) diesel oil and internal combustion oils other than petrol.                     | seven naye paise per litre. |
| (iv) crude oil.                                                                      | one naya paise per litre.   |

(2) Every notification under sub-section (1) shall also be published in the Manipur Gazette.

(3) Nothing in sub-section (1) shall be deemed to render any dealer liable to tax on the sale of taxable goods where such sale takes place:—

(i) outside the Union territory;

(ii) in the course of the import into or export out of the territory of India; or

(iii) in the course of the inter-State trade or commerce as laid down in section 3 of the Central Sales Tax Act, 1956.

74 of 1956.

(4) For the purpose of sub-section (1), any shortage in excess of one per cent. of the quantities of each consignment of motor spirit received into stock by a dealer for sale shall, unless the contrary is proved, be presumed to be due to sale, and the tax shall be levied and collected from the dealer accordingly.

4. (1) The Chief Commissioner may, for carrying out the purposes of this Act, appoint a Commissioner of Taxes, and such other persons as he thinks fit.

(2) Persons appointed under sub-section (1) shall exercise such powers as may be conferred, and perform such duties as may be required, by or under this Act.

5. (1) Every dealer shall, within such time as may be prescribed for the purpose, make an application for registration under this Act.

Registration  
of dealers.

to the Commissioner, and every such application shall contain such particulars and shall be accompanied by such fees as may be prescribed.

(2) Where a dealer has more than one place of business whether in the same town or village or in different towns or villages, he shall apply for registration and obtain a separate registration certificate in respect of each such place of business.

(3) If the Commissioner is satisfied that the application is in conformity with the provisions of this Act and the rules made thereunder, he shall register the applicant and grant him a certificate of registration in the prescribed form which shall specify the class or classes of goods in which the dealer carries on business, and such other particulars as may be prescribed for the purposes of sub-section (1) of section 3.

(4) A certificate of registration granted under this section may either on the application of the dealer to whom it has been granted, or, where no such application has been made, after due notice to the dealer, be amended by the Commissioner if he is satisfied that by reason of the dealer having changed the name, place or nature of his business or the class or classes of goods in which he carries on business or for any other reason, the certificate of registration granted to him requires to be amended.

(5) No dealer shall carry on business in taxable goods without, or otherwise than in accordance with the terms of, a certificate of registration.

**Cancellation of registration certificate.** 6. (1) The Commissioner may cancel any certificate of registration granted to a dealer, if—

(a) he has ceased to carry on business; or

(b) any tax payable under section 3 is not duly paid by him; or

(c) there is any breach of any of the provisions of this Act, the rules made thereunder or the conditions subject to which the registration certificate has been granted; or

(d) he has been convicted under the provisions of this Act:

Provided, that no order shall be passed—

(i) under clause (a), unless the dealer was served with a notice, or

(ii) under clause (b), clause (c) or clause (d), unless the dealer was given a reasonable opportunity of being heard:

Provided further, that such cancellation shall not absolve the dealer from his liability to pay tax and other dues under this Act, nor bar other action as may be taken against him under this Act.

(2) The dealer shall not be entitled to any compensation for any loss or damage directly or indirectly suffered by him by reason of cancellation of the certificate under sub-section (1).

7. Every person registered under this Act shall submit such return Returns. or returns at such intervals and to such authority as may be prescribed.

8. (1) If the Commissioner is satisfied that a return furnished under section 7 in respect of any period is correct and complete, he shall, by an order in writing, assess the tax payable by the dealer on the basis of such return. Assessment.

(2) If the Commissioner is not so satisfied he shall serve on the dealer a notice requiring him on the date, and at the hour and place specified therein, either to attend in person or to produce or cause to be produced any evidence on which he may rely in support of his return.

(3) On the day specified in the notice under sub-section (2) or as soon thereafter as may be, the Commissioner, after hearing such evidence as he may require, shall, by an order in writing, assess the tax payable by the dealer.

(4) If a dealer fails to make a return as required by section 7 or having made the return fails to comply with any of the terms of the notice under sub-section (2), the Commissioner shall, by order in writing assess to the best of his judgment the tax payable by the dealer:

Provided that before making assessment the Commissioner may allow the dealer such further time as he thinks fit to make the return or comply with the terms of the notice issued under sub-section (2).

9. Where a dealer, in the case of an assessment completed Cancellation of assessment, under sub-section (4) of section 8 satisfies the Commissioner, within one month from the date of service of a notice of demand

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as hereinafter provided, that he was prevented by sufficient cause from making the return required by section 7 or that he had not been served with the notice under sub-section (2) of section 8 or that he had not had a reasonable opportunity to comply, or was prevented by sufficient cause from complying with the terms of the notice, the Commissioner shall cancel the assessment and make a fresh assessment in accordance with the provisions of section 8.

**Assessment  
and  
penalty in  
case of  
evasion by  
unregistered  
persons.**

10. If on information or otherwise, the Commissioner is satisfied that any person while being liable to pay tax under this Act has failed to apply for registration and to pay the tax, he shall, after giving the person a reasonable opportunity of being heard, assess, to the best of his judgment, the amount of tax, if any, due from him and the Commissioner may also direct that, in addition to the amount so assessed, a sum not exceeding that amount shall be recovered from the defaulter by way of penalty.

**Assessment  
and penalty  
in case of  
evasion by  
registered  
persons.**

11. If on information or otherwise, the Commissioner is satisfied that any person registered under this Act has not paid the amount of tax due from him or a part thereof for any period, he may proceed against such person in the manner laid down in section 10.

**Power to  
grant  
exemption  
from tax.**

12. (1) If the Chief Commissioner is satisfied that it is necessary in the public interest so to do, he may, by notification in the Official Gazette, exempt generally either absolutely or subject to such conditions as may be specified in the notification, any class of dealers from the payment of the whole or any part of tax, in respect of any taxable goods.

(2) If the Chief Commissioner is satisfied that it is necessary in the public interest so to do, he may, by special order in each case, exempt any dealer from the payment of tax under circumstances of exceptional nature to be stated in such order, in respect of any taxable goods.

**Penalties.**

13. (1) If the Commissioner, in the course of any proceedings under this Act, is satisfied that any dealer—

(a) has, without reasonable cause, failed to furnish the return which he was required to furnish under section 7 or has, without reasonable cause, failed to furnish it within the time allowed and in the manner required, or

(b) has, without reasonable cause, failed to comply with a notice under sub-section (2) of section 8, or

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(c) has concealed the particulars of his sales or deliberately furnished incorrect particulars of such sales, or

(d) has evaded the liability to pay tax,

the Commissioner may direct that such dealer shall, in addition to any tax payable by him, pay, by way of penalty,—

(i) in a case referred to in clause (a) or clause (b), a sum not exceeding one and a half times the tax;

(ii) in a case referred to in clause (c), a sum not exceeding one and a half times the amount of the tax which would have been avoided if the particulars of his sales had been accepted as correct;

(iii) in a case referred to in clause (d), a sum not exceeding one and a half times the amount of the tax sought to be evaded by him.

(2) No order under sub-section (1) shall be made unless the dealer was given a reasonable opportunity of being heard.

14. (1) Any dealer objecting to an order of assessment or ~~Appeal~~ penalty passed under this Act, may within thirty days from the date on which the order was served on him, appeal to the prescribed authority against such assessment or penalty:

Provided that the authority may admit the appeal after the expiration of thirty days, if such authority is satisfied that for reasons beyond the control of the appellant or for any other sufficient cause, the appeal could not be filed within time.

(2) Any person desirous of appealing against an order of assessment or penalty passed under this Act shall, pending the appeal, deposit with the Commissioner the tax demanded or the penalty levied:

Provided that where in any particular case, the prescribed authority is of opinion that the deposit of tax demanded or penalty levied will cause undue hardship to the appellant, it may in its discretion dispense with such deposit either unconditionally or subject to such conditions as it may deem fit.

(3) Every appeal under sub-section (1) shall be presented in the prescribed form and shall be verified in the prescribed manner.

(4) The prescribed authority shall fix a day and place for hearing of the appeal, and may from time to time adjourn the hearing and make or cause to be made, such further inquiry as it may deem necessary.

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(5). In disposing of an appeal under sub-section (1), the prescribed authority may:—

(a) confirm, reduce, enhance or annul the assessment, or

(b) set aside the assessment and direct a fresh assessment after such inquiry as may be ordered, or

(c) confirm, reduce or annul the order imposing a penalty.

(6) Every order passed in appeal under this section shall, subject to the provisions of section 16, be final.

Powers of revision of Commissioner.

15. The Commissioner may, of his own motion or on application, call for and examine the records of any proceedings under this Act before any person appointed under section 4 to assist the Commissioner and revise after such inquiry as he may deem necessary any order passed in such proceedings:

Provided that no order prejudicial to a dealer shall be passed under this sub-section without giving him a reasonable opportunity of being heard:

Provided further that the Commissioner shall not revise any order under this section in any case—

(a) where an appeal against the order lies to the prescribed authority, the time within which such appeal can be made has not expired or the dealer has not waived his right to appeal to the prescribed authority;

(b) where the order is the subject of an appeal before the prescribed authority;

(c) where the application is made by an aggrieved dealer for such revision unless the application is made within ninety days from the date on which the order was served on the applicant;

(d) where the order is sought to be revised by the Commissioner of his own motion, if such order was made more than two years previously.

Revision by the Chief Commissioner.

16. (1) The Chief Commissioner may, on the application of a dealer aggrieved by any order passed under section 14 or section 15, annul or modify such order:

Provided that no order enhancing any tax or penalty shall be passed under this section.

(2) An application under sub-section (1) shall be made within ninety days from the date on which the order was served on the applicant:

Provided that the Chief Commissioner may admit the application after the expiration of ninety days if he is satisfied that for reasons beyond the control of the applicant or for any other sufficient cause, the application could not be filed within time.

17. (1) Any sum due under this Act shall be payable within thirty days of the date of service of the notice demanding the same. Payment of tax, etc.

(2) If any person fails to pay the sum due within the time specified in sub-section (1), the Commissioner may impose a penalty not exceeding fifty per cent. of the sum demanded from him.

18. Any sum due under this Act shall be recoverable as an arrear Recoveries of land revenue.

19. The Commissioner shall, in the prescribed manner, refund to Refunds. a dealer any sum paid by such dealer in excess of the sum due from him under this Act, either by cash payment or at the discretion of the Commissioner by set off against any other sum due from him.

20. Every registered dealer on whom a notice has been served to Maintenance of accounts. furnish return under the provisions of this Act, shall keep a true account of taxable goods produced, made or processed by him or brought by him into the Union territory from any place outside that territory for the purpose of sale in that territory, and of sales.

21. Subject to such conditions and restrictions as may be prescribed, the Commissioner may, for the purposes of this Act, require any dealer to produce before him any accounts, registers, vouchers or other documents relating to the production, making, processing, purchase or sale of taxable goods or matters connected therewith. Powers to order production of accounts, etc.

22. The Commissioner may—

(a) inspect at all reasonable time all accounts and vouchers relating to the stock, purchases, sales and deliveries of taxable goods kept by manufacturers, and dealers and the stock of taxable goods with them;

(b) enter and search, at any time, by day or by night any building, vessel, vehicle or place in which he has reason to believe that any taxable goods liable to confiscation under this Act are kept or concealed;

Power for entry, inspection, search and seizure.

(c) seize any taxable goods or any other article which he has reason to believe is liable to confiscation under this Act.

**Offences and penalties.**

**23. Whoever—**

(a) carries on business as a dealer and acts in contravention of any of the provisions of this Act; or

(b) fails, without reasonable cause, to submit in due time any return as required by or under the provisions of this Act, or submits false return; or

(c) fails, when required by or under the provisions of this Act, to keep accounts or records of sales; or

(d) fails, when required by or under the provisions of this Act, to produce any accounts, evidence or documents or to furnish any information; or

(e) fails or neglects to comply with any requirement under the provisions of this Act; or

(f) knowingly produces false accounts, registers or documents, or knowingly furnishes incorrect information; or

(g) fraudulently or wilfully evades the payment of any tax due under this Act, or conceals his liability to such tax; or

(h) fails to pay within the time allowed any tax or penalty due from him; or

(i) prevents or obstructs inspection or entry by any officer acting under the provisions of this Act; or

(j) demands or charges from any purchaser sales-tax as such at a rate higher than that payable under this Act;

shall be punishable with imprisonment which may extend to six months or with fine not exceeding one thousand rupees or with both and when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the period of the continuance of the offence.

**False statement in declaration.**

**24. Whoever makes a statement in a verification or declaration in connection with any proceedings under this Act which is false and which he either knows or believes to be false or does not believe to be true, 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.**

## Taxation

5 of 1898.

25. The provisions of the Code of Criminal Procedure, 1898, shall apply to any search or seizure made under this Act. Search and seizure how made.

5 of 1898.

26. (1) Every officer, not below such rank as may be prescribed, shall within the area for which he is appointed, have power to investigate all offences punishable under this Act. Power of investigation.

- (2) Every such officer shall in the conduct of such investigation exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognizable offence.

27. Any officer or person exercising powers under this Act, who—

(a) without reasonable ground of suspicion, enters or searches, or causes to be entered or searched, any building, vessel, vehicle or place; or

(b) vexatiously or unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act; or

(c) vexatiously and unnecessarily detains or searches any person;

shall be punishable with fine which may extend to five hundred rupees.

28. Whenever an offence punishable under this Act is committed, the taxable goods or any other article in respect of which the offence has been committed shall be liable to confiscation. Things liable to confiscation.

29. (1) Subject to such conditions as may be prescribed, the Commissioner may, either before or after the institution of criminal proceedings under this Act, accept from the person who has committed or is reasonably suspected of having committed an offence under this Act or the rules made thereunder, by way of composition of such offence—

(a) where the offence consists of the failure to pay, or the evasion of, any tax recoverable under this Act, in addition to the tax so recoverable, a sum of money not exceeding one thousand rupees or double the amount of the tax recoverable, whichever is greater, and

(b) in any other case a sum of money not exceeding one thousand rupees in addition to the tax recoverable.

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Taxation]*

(2) On the payment of such sum of money and the tax, if any, payable under section 3 to the Commissioner, such person shall be discharged, the property seized, if any, shall be released and no further proceedings shall be taken against such person or property in respect of such offence.

**Cognizance of offence.**      30. No court shall take cognizance of any offence under this Act, or under the rules made thereunder except with the previous sanction of the Commissioner, and no court inferior to that of a Magistrate of the first class shall try any such offence.

**Protection of persons acting in good faith and limitation of suits and proceedings.**      31. (1) No suit, prosecution or other legal proceedings shall be instituted against any officer of the Government for anything done or intended to be done in good faith under this Act or the rules made thereunder.

(2) No suit shall be instituted against the Government and no suit, prosecution or other proceeding shall be instituted against any officer of the Government in respect of anything done or intended to be done, under this Act unless the suit, prosecution or other proceeding is instituted within four months from the date of the act complained of.

**Delegation of Commissioner's powers.**      32. Subject to such restrictions and conditions as may be prescribed, the Commissioner may, by notification in the Official Gazette, delegate any of his powers under this Act to any person appointed under section 4 to assist him.

**Computation of the period of limitation.**      33. In computing the period of limitation prescribed for an appeal or revision, the day on which the order complained of was served and the time requisite for obtaining a certified copy of such order, shall be excluded.

**Information to be furnished regarding change of business.**      34. If any dealer—  
(a) sells or otherwise disposes of his business or any part of his business or any place of business or effects or comes to know of any other change in the ownership of the business, or  
(b) discontinues his business or changes his place of business or opens a new place of business, or  
(c) changes the name or nature of his business,

he shall within the prescribed time inform the Commissioner accordingly, and if any such dealer dies, his legal representative shall in like manner inform the Commissioner.

35. Any order passed or notice issued under this Act, shall be served—

- (a) by tendering the order or notice or sending it by registered post to the dealer for whom it is intended or to his agent; or  
(b) if the order or notice cannot be served in the manner provided in clause (a), by affixing it on the outer door or some other conspicuous part of the last known premises of the dealer.

36. (1) The Chief Commissioner may, subject to the condition of previous publication, 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 powers, such rules may provide for—

- (a) all matters expressly required or allowed by this Act to be prescribed;  
(b) the recovery of the tax leviable under this Act;  
(c) the circumstances and the manner in and the conditions under which refunds may be made and for the cancellation of erroneous refunds;  
(d) the maintenance of records and books and the submission of returns and the form of such records, books and returns;  
(e) the authority to which appeals against any order under this Act may be preferred and the fees to be charged in connection therewith;  
(f) applications for revisions under this Act and the fees to be charged in connection therewith;  
(g) the issue of notices under this Act;  
(h) the fees, if any, for certificates granted under this Act.

(3) Rules made under this Act may provide that a breach of any of them shall be punishable with fine not exceeding one thousand rupees or with imprisonment not exceeding three months or with both, and when the offence is a continuing offence, with a daily fine which may extend to one hundred rupees for every day during which the offence continues.

(4) 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

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Taxation

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 of  
Assam Act  
4 of 1939 as  
extended to  
Manipur.

37. The Assam Sales of Motor Spirit and Lubricants Taxation Act, 1939, as extended to Manipur shall stand repealed:

Provided that such repeal 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:

Provided further that anything done or any action taken (including any appointment or delegation made, notification, instruction or direction issued, certificate of registration granted) under the Act hereby repealed shall be deemed to have been done or taken under the corresponding provision of this Act and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under this Act.

THE STATE-ASSOCIATED BANKS (MISCELLANEOUS  
PROVISIONS) ACT, 1962

No. 56 OF 1962

[14th December, 1962]

An Act further to amend the State Bank of India Act, 1955, the State Bank of India (Subsidiary Banks) Act, 1959, and the Bankers' Books Evidence Act, 1891, and to provide for the winding up of certain minor State-associated banks and for matters connected therewith.

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

1. (1) This Act may be called the State-Associated Banks (Miscellaneous Provisions) Act, 1962. Short title and commencement.
- (2) Section 3, except clauses (ii), (iv) and (vii) thereof, shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint; and the rest of this Act shall come into force at once.
2. In the State Bank of India Act, 1955— Amendment of Act 23 of 1955.
- (i) in sub-section (3) of section 31, the following proviso shall be inserted at the end, namely:—
- “Provided that nothing contained in this sub-section shall apply to such director by reason only of his being—
- (i) a shareholder (other than a director) holding not more than two per cent. of the paid-up capital in any public company as defined in the Companies Act, 1956, or any corporation established by or under any law for the time being in force in India or any co-operative society, with which or to which the State Bank has entered into or made, or proposes to enter into or make, a contract, loan, arrangement or proposal; or

1 of 1956.

<sup>1</sup>1st January, 1963; vide Notification No. G.S.R. 1781, dated 18-12-1962, Gazette of India, 1963, Pt. II, Sec. 3(i), p. 2141.

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(ii) a director *ex officio* of the State Bank or a director of a subsidiary bank.;

(ii) in section 34,—

(a) in sub-section (5), after the words "without security," the words "or without security of a description authorised by this Act" shall be inserted;

(b) in sub-section (6)—

(i) for the word and figures "section 33", the words "this Act" shall be substituted;

(ii) the words "interest in" shall be omitted; and

(iii) in section 50, in clause (q) of sub-section (2), after the words "without security" in both the places where they occur, the words "or without security of a description authorised by this Act" shall be inserted.

Amend-  
ment of  
Act 38 of  
1959.

3. In the State Bank of India (Subsidiary Banks) Act, 1959—

(i) in section 2, sub-clause (iii) of clause (b), sub-clause (iii) of clause (c) and sub-clause (iii) of clause (d) shall be omitted;

(ii) in Chapter II, for the existing heading, the following heading shall be substituted, namely:—

"CONSTITUTION OF NEW BANKS AND CHANGE OF NAME OF ANY SUBSIDIARY BANK";

(iii) in section 3, clause (c) shall be omitted;

(iv) after section 3, the following section shall be inserted, namely:—

Change  
of name  
of a sub-  
sidiary  
bank.

"3A. (1) The Central Government after consulting the State Bank and the Reserve Bank may, by notification in the Official Gazette, direct that the name of any subsidiary bank shall, with effect from such date as may be specified in this behalf, be changed to any other name and thereupon any reference to that subsidiary bank in this Act or any other law for the time being in force or in any contract, instrument or document shall be construed as a reference to that bank by its new name.

(2) The change in the name of a subsidiary bank under sub-section (1) shall not affect any rights or obligations of that bank or render defective any legal proceedings by or against it, and any legal proceedings which might have been continued or commenced by or against that bank by its former name may be continued by or against it by its new name.”;

(v) in section 12, after sub-section (3), the following sub-section shall be inserted, namely:—

‘(4) For the purposes of this section,—

(a) “corresponding new bank” means in relation to the Bank of Jaipur Limited, the institution constituted under section 3 as the State Bank of Bikaner;

(b) “existing bank” includes the Bank of Jaipur Limited’;

(vi) in section 13, for sub-section (13), the following sub-section shall be substituted, namely:—

‘(13) For the purposes of this section,—

(a) “corresponding new bank” does not include the State Bank of Patiala and means in relation to the Bank of Jaipur Limited the institution constituted under section 3 as the State Bank of Bikaner;

(b) “existing bank” includes the Bank of Jaipur Limited, but does not include the Bank of Patiala.’;

(vii) in section 34, for the proviso to sub-section (5), the following proviso shall be substituted, namely:—

“Provided that nothing contained in this sub-section shall apply to such director by reason only of his being—

(i) a shareholder (other than a director) holding not more than two per cent. of the paid-up capital in any public company as defined in the Companies Act, 1956, or any corporation established by or under any law for the time being in force in India or any co-operative society, with which or to which the subsidiary bank has entered into or made, or proposes to enter into or make, a contract, loan, arrangement or proposal; or

(ii) a director of the State Bank or of any other subsidiary bank being a director under clause (a) or clause (e) of sub-section (1) of section 25 or being an

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officer of the Reserve Bank or the State Bank nominated under clause (b) or clause (c) of that sub-section.”;

(viii) in section 36, sub-sections (3) and (4) shall be omitted; and

(ix) for section 59, the following section shall be substituted, namely:—

Construction of  
references to  
existing  
banks.

“59. (1) For the purposes of sections 45, 49, 55, 58 and the First Schedule, the expression ‘existing bank’ shall include the Bank of Jaipur Limited.

(2) Except as otherwise provided in any general or special order made by the Central Government, any reference in any law, other than this Act, or in any contract or other instrument—

(a) to an existing bank, shall be construed as a reference to the corresponding new bank;

(b) to the Bank of Jaipur Limited, shall be construed as a reference to the State Bank of Bikaner.”.

Amendment  
of  
Act 18 of  
1891.

4. In the Bankers' Books Evidence Act, 1891, in section 2—

(i) for clause (1), the following clauses shall be substituted, namely:—

“(1) “company” means any company as defined in section 3 of the Companies Act, 1956, and includes a foreign company 1 of 1956. within the meaning of section 591 of that Act;

(1A) “corporation” means any body corporate established by any law for the time being in force in India and includes the Reserve Bank of India, the State Bank of India and any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959; ;

(ii) for sub-clause (a) of clause (2), the following clause shall be substituted, namely:—

“(a) any company or corporation carrying on the business of banking.”.

Provisions  
in respect  
of the  
State  
Bank,  
Dholpur,

5. (1) Notwithstanding anything to the contrary contained in any other law or in any order or other instrument—

(a) the Central Government may by order appoint one or more officers to take over the management of the Dholpur bank or to wind up its affairs and distribute its assets and any

38 of 1959.

expenditure incurred in connection with such appointment, management, winding up or distribution shall be payable by that bank;

(b) the principal civil court of original jurisdiction in the district in which the Dholpur bank's head office is situated shall have exclusive jurisdiction to entertain and decide any claim made by or against the Dholpur bank or any question whatever, whether of law or of fact, which may relate to or arise in the course of the winding up of that bank, whether such claim or question has accrued or arisen before or accrues or arises after the date of the winding up order, and any suit or other legal proceeding, whether of a civil or criminal nature, relating to any such claim or question and pending in any other court at the commencement of this Act shall not be proceeded with except in accordance with this section;

(c) in regard to the admissibility of the entries in the books of account as evidence in the course of the proceedings for the winding up of the bank, the settlement of the list of debtors of the bank, the passing of orders for the payment of the amounts due by the said debtors, the execution of the said orders or any other orders or decrees of the court, the priority of the claims on the bank, the making of preferential payments and the discharge of the other liabilities of the bank and any other incidental or connected matters, the law relating to the winding up of banking companies, as in force for the time being, shall apply as if the Dholpur bank were a banking company;

(d) the period of limitation for any suit or application relating to any payment due to the Dholpur bank which has accrued before or may accrue on or after the date of the first appointment of the officer in charge of winding up of the bank shall be twelve years from the date of the accrual of the claim or five years from the date of such first appointment of the officer aforesaid, whichever may end later; and

(e) after the repayment of all the deposit liabilities and any other amounts due to be paid by the bank including the amounts due to the Government of Rajasthan, the remaining assets, if any, of the bank shall be utilised, as far as may be, for the purposes and objects specified in the State Bank, Dholpur Act, 1915, and other relevant documents.

(2) In this section, "Dholpur bank" means the bank known as the Dholpur State Bank and governed at the commencement of this section by the State Bank, Dholpur Act, 1915.

400 State-Associated Banks (Miscellaneous Provisions) [ACT 56 OF 1962]

Amendment of  
the State  
Bank of  
Kurund-  
wad  
(Junior)  
Act, 1933.

Special  
provision  
for wind-  
ing up of  
the bank.

6. In the State Bank of Kurundwad (Junior) Act, 1933,—

(a) in section 22, for the words "The Indian Companies Act as applied to the State," the words and figures "The Companies Act, 1956" shall be substituted; and

1 of 1956.

(b) after section 22, the following section shall be inserted, namely:—

"22A. No provision of law relating to the winding up of companies or corporations shall apply to the bank and—

(i) the provisions of section 5 of the State-Associated Banks (Miscellaneous Provisions) Act, 1962, 56 of 1962, except the provisions of clauses (d) and (e) of sub-section (1) thereof, and

(ii) the provisions of section 45-O of the Banking Companies Act, 1949,

10 of 1949.

shall apply to or in relation to the bank as if references to the court were references to the principal civil court of original jurisdiction in the district in which the bank's head office is situated and references to the Dholpur bank were references to the State Bank of Kurundwad (Junior) Ltd.".

## THE DELHI MOTOR VEHICLES TAXATION ACT, 1962

No. 57 OF 1962

[15th December, 1962]

An Act to impose a tax on motor vehicles in the Union territory of Delhi and for other matters connected therewith.

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

1. (1) This Act may be called the Delhi Motor Vehicles Taxation Short title, extent and commencement.  
Act, 1962.

(2) It extends to the whole of the Union territory of Delhi.

(3) It shall come into force on such date<sup>1</sup> as the Chief Commissioner may, by notification in the Official Gazette, appoint.

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

Definitions.

(a) "Chief Commissioner" means the Chief Commissioner of Delhi;

(b) "Delhi" means the Union territory of Delhi;

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

(d) "quarter" means a period of three months commencing on the first day of April, the first day of July, the first day of October or the first day of January in each year;

(e) "registered owner" means the person in whose name a motor vehicle is registered under the Motor Vehicles Act, 1939;

(f) "tax" means the tax levied under this Act;

(g) "taxation authority" means any person or authority appointed by the Chief Commissioner by notification in the Official Gazette to exercise the powers and perform the duties conferred or imposed upon a taxation authority by or under this Act;

4 of 1939.

<sup>1</sup>1st April, 1963; vide Notification No. F. 21(5)/63-PR(I), dated 29-3-1963, Delhi Gazette, Extraordinary, Pt. IV, p. 283.

- (h) "token" means a ticket to be displayed on a motor vehicle as an indication that the tax has been duly paid or that no tax is payable;
- (i) "year" means the financial year;
- (j) all words and expressions used, but not defined in this Act, and defined in the Motor Vehicles Act, 1939, shall have the meanings respectively assigned to them in that Act.

**Levy of tax.**

3. Subject to the other provisions of this Act, on and from the commencement of this Act, there shall be levied and collected on all motor vehicles used or kept for use in Delhi, a tax at the rate specified in Schedule I.

**Declaration and payment of tax.**

4. (1) Every registered owner or person having possession or control of a motor vehicle used or kept for use in Delhi shall fill up and sign a declaration in the prescribed form stating the prescribed particulars and shall deliver the same to the taxation authority within the prescribed time.

(2) The tax to which a registered owner or person having possession or control of a motor vehicle appears by such declaration to be liable under section 3 shall be paid by him,—

(a) for a year at the rate specified in Schedule I (hereinafter referred to as the annual rate); or

(b) for one or more quarters, at one-fourth of the annual rate for each quarter; or

(c) once in two months or monthly, in equal instalments at one-sixth or one-twelfth, as the case may be, of the annual rate:

Provided that any broken period in a month shall, for the purpose of levying the tax be considered as a full month.

(3) The tax shall be paid within such time and in such manner as may be prescribed.

(4) In calculating the tax due for any period less than one year, fraction of a rupee shall be counted as a rupee.

**Issue of token.**

5. (1) When a person pays the amount of tax leviable under section 3 in respect of any motor vehicle or proves to the satisfaction of the taxation authority that no such tax is payable in respect of such vehicle, the taxation authority shall,—

(a) issue to such person a token in the prescribed form specifying therein the period for which such tax has been paid or that no such tax is payable, and

4 of 1939.

(b) specify in the certificate of registration granted in respect of the vehicle under the Motor Vehicles Act, 1939, or in the case of vehicles not registered under that Act, in a certificate in such form as may be prescribed, that the tax has been paid for the period specified under clause (a) or that no tax is payable in respect of that vehicle, as the case may be.

(2) No motor vehicle liable to tax under this Act shall be used or kept for use in Delhi unless the registered owner or the person having possession or control of such vehicle has obtained a valid token in respect of that vehicle, and that token is displayed on the vehicle in the prescribed manner.

6. (1) When a motor vehicle used or kept for use in Delhi is altered or is proposed to be used in such manner as to render the registered owner or the person who has possession or control of such vehicle liable to the payment of additional tax under section 7, such owner or person shall fill up, sign and deliver in the manner provided in sub-section (2), an additional declaration and shall, along with such additional declaration (accompanied by the certificate of registration in respect of such motor vehicle), pay to the taxation authority an additional tax payable under that section which he appears by such additional declaration to be liable to pay in respect of such vehicle. Additional declaration.

(2) The additional declaration shall be in the prescribed form containing the prescribed particulars and shall be delivered to the taxation authority after being duly filled up and signed within the prescribed time. The additional declaration shall indicate clearly also the nature of alteration made in the motor vehicle or, as the case may be, the altered use to which the vehicle is proposed to be put.

(3) On receipt of the additional tax under sub-section (1), the taxation authority shall issue to the registered owner or the person who has possession or control of the vehicle, a fresh token in place of the original token and shall cause an entry of such payment to be made in the certificate of registration.

7. When any motor vehicle in respect of which a tax for any period is payable or has been paid, is altered during such period, or proposed to be used during such period in such manner as to cause the vehicle to become a vehicle in respect of which a higher rate of tax is payable, the registered owner or the person who has possession or control of the vehicle, shall, in addition to the tax, if any, due from him for that period, be liable to pay for the unexpired portion of such period since the vehicle is altered or Liability for additional tax.

proposed to be used, an additional tax of a sum equal to the difference between the amount of tax payable for such unexpired portion at the higher rate and the rate at which the tax was payable or paid before the alteration or use of the vehicle for that portion; and until such additional tax has been paid, the taxation authority shall not grant a fresh token in respect of the vehicle so altered or proposed to be so used.

*Explanation.*—In calculating the unexpired portion under this section any broken period in a month shall be considered as a full month.

Production  
of certificate  
of insurance.

8. Every registered owner or person having possession or control of a motor vehicle shall, at the time of making payment of the tax, produce before the taxation authority a valid certificate of insurance in respect of the vehicle complying with the requirements of Chapter VIII of the Motor Vehicles Act, 1939.

4 of 1939.

Liability to  
pay arrears  
of tax of  
person suc-  
ceeding to  
the owner-  
ship, posses-  
sion or  
control of  
motor  
vehicles.

9. (1) If the tax leviable in respect of any motor vehicle remains unpaid by any person liable for payment thereof and such person before having paid the tax has transferred the ownership of such vehicle or has ceased to be in possession or control of such vehicle, the person to whom the ownership of the vehicle has been transferred or the person who has possession or control of such vehicle shall be liable to pay the said tax to the taxation authority.

(2) Nothing contained in this section shall be deemed to affect the liability to pay the said tax of the person who has transferred the ownership or has ceased to be in possession or control of such vehicle.

Refund of  
tax.

10. (1) When any person who has paid the tax in respect of a motor vehicle produces before the taxation authority a certificate signed by the registering authority stating that the tax token and the certificate of registration issued in respect of such vehicle have been surrendered on the date specified by the registering authority in his certificate, such person shall, on an application made in that behalf to the taxation authority and subject to such conditions as may be prescribed, be entitled to a refund for each complete month of the period for which such tax has been paid and which is unexpired on the date on which the tax token and the certificate of registration were surrendered, of an amount equal to one-twelfth of the annual tax payable in respect of such vehicle.

(2) When any person has paid the tax in respect of a motor vehicle and the vehicle is removed outside Delhi before the expiry of the period for which the tax has been paid and taxed in another

State, such person shall, on an application made in that behalf to the taxation authority and subject to such conditions as may be prescribed, be entitled to a refund for each complete month of the period for which such tax has been paid and during which the vehicle was removed from Delhi, of an amount equal to one-twelfth of the annual tax payable in respect of such vehicle.

11. When any registered owner or any person who has possession or control of any motor vehicle used or kept for use in Delhi is in default in making a payment of the tax the taxation authority may direct that, in addition to the amount of arrears, a sum not exceeding the annual tax payable in respect of such vehicle shall be recovered from him by way of penalty:

Provided that before giving any such direction the registered owner or such person shall be given a reasonable opportunity of being heard.

12. (1) Any tax due and not paid as provided for by or under this Act and any sum directed to be recovered by way of penalty under section 11 shall be recoverable in the same manner as an arrear of land revenue.

(2) The motor vehicle in respect of which the tax is due or in respect of which any sum has been directed to be recovered as penalty under section 11, or its accessories may be distrained and sold in pursuance of this section whether or not such vehicle or accessories is or are in the possession or control of the person liable to pay the tax or penalty.

13. (1) Where the registered owner or the person having possession or control of a motor vehicle is an agriculturist and that motor vehicle has been designed for agricultural operations and is used solely for such operations in relation to his own land then, that vehicle shall be exempt from the payment of the tax.

*Explanation.*—For the purposes of this sub-section the expression "agricultural operations" includes,—

(i) tilling, sowing, harvesting, crushing of any agricultural produce or any other similar operation carried out for the purpose of agriculture;

(ii) transport of manure, seeds, insecticides and other like articles required for work in the land from the market to the land; and

(iii) transport of any agricultural produce from the land to the place of storage or from the place of storage to the market.

(2) When the registered owner or the person having possession or control of a motor vehicle has given previous intimation in writing to the taxation authority that the motor vehicle would not be used in any public place for a particular period, being not less than one month, and deposits the certificate of registration of such motor vehicle with the taxation authority and obtains an acknowledgment therefor from that authority, he shall be exempt from the payment of the tax for that period.

(3) Where the Chief Commissioner is of opinion that it is necessary or expedient in the public interest so to do, he may, by notification in the Official Gazette, and subject to such conditions as he may specify in the notification, exempt either totally or partially any class of motor vehicles other than those falling under sub-section (1) or any motor vehicles belonging to any class of persons from the payment of the tax.

**Reduction  
of tax in  
cases of  
certain  
motor  
vehicles**

14. Where the registered owner of a motor vehicle used or kept for use in Delhi is a co-operative society registered under any law relating to co-operative societies for the time being in force, the tax payable in respect of that motor vehicle shall be one half of the rates specified in Schedule I, if the taxation authority is satisfied, after such enquiry as it deems fit, that,—

(i) the co-operative society is solely engaged in the business of transport of goods or passengers or both from one place to another in motor vehicles;

(ii) at least seventy-five per cent. of the members of the co-operative society are its employees;

(iii) at least fifty per cent. of the members of the co-operative society are not related to each other; and

(iv) the motor vehicle is used or kept for use exclusively for the purpose of the co-operative society.

*Explanation.*—For the purposes of this section a member shall be deemed to be related to any other member if that member is the husband, wife, brother or sister or any lineal ascendant or descendant of that other member.

**15.** Where in respect of a motor vehicle the tax payable under the law relating to taxation on motor vehicles in force in any State has been paid in that State for any period and that motor vehicle is brought into Delhi for use during that period, then,—

(i) no tax under this Act shall be payable in respect of that motor vehicle; and

(ii) the token issued in that State in respect of that motor vehicle shall be deemed to be a token issued under this Act,

for such period or for a period of ninety days from the date on which the motor vehicle is brought into Delhi, whichever is shorter:

Provided that the registered owner or the person having possession or control of the motor vehicle complies with the provisions of sub-section (1) of section 4.

**16.** (1) Any person who is aggrieved by any order or direction of Appeal the taxation authority may file an appeal before such person or authority, in such manner, within such time and on payment of such fees, as may be prescribed.

(2) The appeal shall be heard and decided in such manner as may be prescribed.

(3) Every decision on such appeal shall be final and shall not be called in question in any court of law.

**17.** Any police officer in uniform, not below the rank of Sub-Inspector or any other officer prescribed in this behalf may—

(a) enter at any time between sunrise and sunset any premises where he has reason to believe that a motor vehicle is kept, or,

(b) require the driver of any motor vehicle in any public place to stop such vehicle and cause it to remain stationary so long as may reasonably be necessary,

for the purpose of satisfying himself that the amount of the tax in respect of such vehicle, has been paid.

**18.** Whoever—

(a) delivers in respect of a motor vehicle a declaration or additional declaration wherein the particulars required by or under this Act to be therein set forth are not fully and truly stated, or

(b) obstructs any officer in the exercise of the powers conferred by clause (a) of section 17 or fails to stop the motor vehicle

Effect of  
payment of  
tax in other  
States with  
respect to  
motor  
vehicles  
brought  
into Delhi.

Powers of  
police offi-  
cers and  
other offi-  
cers.

Penalty for  
incomplete  
and untrue  
declaration,  
etc.

when required to do so by such officer under clause (b) of that section,

shall on conviction be punishable—

(i) with fine which may extend to a sum equal to the annual tax payable in respect of such vehicle; and

(ii) in the event of such person having been previously convicted of an offence under this section, with fine which may extend to a sum equal to twice the annual tax payable in respect of such vehicle.

**Other penalties.**

19. Whoever contravenes any of the provisions of this Act or the rules made thereunder other than those punishable under section 18 shall on conviction be punishable with fine which may extend to one hundred rupees and in the event of such person having been previously convicted of an offence under this section, with fine which may extend to two hundred rupees.

**Utilization of the proceeds of tax.**

20. The proceeds of the tax collected under this Act (which shall form part of the Consolidated Fund of India) reduced by the cost of collection as determined by the Central Government shall, if Parliament by appropriation made by law in this behalf so provides, be paid,—

(i) to the Municipal Corporation of Delhi established under section 3 of the Delhi Municipal Corporation Act, 1957, and

(ii) the New Delhi Municipal Committee established under section 11 of the Punjab Municipal Act, 1911, as extended to Delhi,

for the performance of their respective functions under the said Acts and the payment shall be made in such proportion as may be prescribed.

**Trial of offences.**

21. No court inferior to that of a magistrate of the second class shall try an offence punishable under this Act.

**Protection for bona fide acts.**

22. No prosecution, suit or other proceedings shall lie against the taxation authority or any other authority for anything in good faith done or intended to be done under this Act.

**Power to make rules.**

23. (1) The Chief Commissioner may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

66 of 1957.

Punjab Act  
3 of 1911.

(2) In particular and without prejudice to the generality of the foregoing provision, the Chief Commissioner may make rules for all or any of the following matters, namely:—

- (a) the time within which, and the manner in which, the tax shall be paid;
- (b) the form of declaration and additional declaration, particulars to be stated therein and the time within which the declaration or additional declaration shall be delivered under section 4 or section 6, as the case may be;
- (c) the form of the tax token and the manner in which the tax token shall be displayed in the motor vehicle under section 5;
- (d) the conditions subject to which refund of tax may be allowed under section 10;
- (e) the authority before which, the manner in which, the time within which and the fee on payment of which, an appeal may be filed and the manner in which such appeal shall be heard and decided under section 16;
- (f) the issue of duplicate tokens and of certified copies of the records of the taxation authority and the fees chargeable therefor;
- (g) any other matter which is to be, or may be, prescribed.

(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 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.

24. (1) On and from the commencement of this Act, the Acts Repeal specified in Schedule II shall stand repealed.

(2) The repeal of the said Acts by sub-section (1) shall not affect,—

- (a) the previous operation of the said Acts or anything duly done or suffered thereunder; or
- (b) any right, privilege, obligation or right conferred, accrued or incurred under any of the said Acts; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any of the said Acts;

(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 Acts had not been repealed.

(3) Subject to the provisions contained in sub-section (2) and notwithstanding the repeal of the Punjab Motor Vehicles Taxation Act, 1924, as extended to Delhi,—

Punjab Act  
4 of 1924.

(i) every declaration delivered under that Act in respect of any motor vehicle shall be deemed to be a declaration delivered under this Act; and

(ii) every token issued under that Act and valid immediately before the commencement of this Act, shall continue to be valid after such commencement for the unexpired portion of the period for which it has been issued.

25. In the Delhi Municipal Corporation Act, 1957, for section 184, the following section shall be substituted, namely:-

"184. The proceeds of the entertainment and betting taxes collected in Delhi under the provisions of the U.P. Entertainment and Betting Tax Act, 1937, as extended to Delhi (which shall form part of the Consolidated Fund of India) reduced by the cost of collection as determined by the Central Government shall, if Parliament by appropriation made by law in this behalf so provides, be paid to the Corporation for the performance of its functions under this Act."

U.P. Act 8  
of 1937.

SCHEDULE I  
(See section 3)

Description of motor vehicles	Annual rate of tax
	Rs.
PART A.—Motor vehicles fitted solely with pneumatic tyres—	
I. Motor cycles and tricycles (including motor scooters and cycles with attachment for propelling the same by mechanised power)—	
(a) Motor cycles, scooters (Flat rate)	32/-

<i>Description of motor vehicles</i>	<i>Annual rate of tax</i>
	Rs.
(b) Scooterettes and auto cycles (Flat rate) .	16/-
(c) Tricycles (Flat rate) . . . . .	40/-
(d) Motor cycles or tricycles used for drawing a trailer or side car in addition to above rates . . . . .	12/-
II. Motor vehicles the registered unladen weight of which does not exceed 250 kilograms, adapted and used for invalids . . . . .	8/-
III. Motor vehicles (including tricycles) used for the transport or haulage of goods or materials—	
(a) Vehicles the registered laden weight of which does not exceed one tonne . . . . .	140/-
(b) Vehicles the registered laden weight of which exceeds one tonne but does not exceed 2 tonnes . . . . .	200/-
(c) Vehicles the registered laden weight of which exceeds 2 tonnes but does not exceed 4 tonnes . . . . .	300/-
(d) Vehicles the registered laden weight of which exceeds 4 tonnes but does not exceed 6 tonnes . . . . .	400/-
(e) Vehicles the registered laden weight of which exceeds 6 tonnes but does not exceed 8 tonnes . . . . .	500/-
(f) Vehicles the registered laden weight of which exceeds 8 tonnes but does not exceed 9 tonnes . . . . .	600/-
(g) Vehicles the registered laden weight of which exceeds 9 tonnes but does not exceed 10 tonnes . . . . .	700/-
(h) Vehicles the registered laden weight of which exceeds 10 tonnes . . . . .	100/- for every tonne or part thereof,
(i) Additional tax payable in respect of such vehicles used for drawing trailers—	
(1) For each trailer the registered laden weight of which does not exceed 2 tonnes . . . . .	100/-
(2) For each trailer the registered laden weight of which exceeds 2 tonnes . . . . .	200/- :
	Provided that two or more vehicles shall not be chargeable under this clause in respect of the same trailer.

<i>Description of motor vehicles</i>	<i>Annual rate of tax</i>
	Rs.
<b>IV. Motor vehicles (including tricycles) plying for hire and used for the transport of passengers—</b>	
(a) Vehicles licensed to carry in all not more than two passengers (excluding driver)	80/-
(b) Vehicles licensed to carry in all more than two but not more than four passengers (excluding driver and conductor)	160/-
(c) Vehicles licensed to carry in all more than four passengers but not more than six passengers (excluding driver and conductor)	300/-
(d) Vehicles licensed to carry in all more than six passengers but not more than eighteen passengers (excluding driver and conductor)	400/-
(e) Vehicles licensed to carry more than eighteen passengers (excluding driver and conductor)	
	The rates specified in (d) above plus Rs. 60/- for every passenger in addition to eighteen passengers which the vehicle is so licensed to carry subject to a maximum of Rs. 2,200/- per annum.
<b>V. Motor vehicles owned by Airline Companies or Corporations for carrying passengers and staff—</b>	
(a) Vehicles the seating capacity of which does not exceed four (excluding driver)	160/-
(b) Vehicles the seating capacity of which exceeds four but does not exceed six (excluding driver)	300/-
(c) Vehicles the seating capacity of which exceeds six but does not exceed eighteen (excluding driver)	400/-
(d) Vehicles the seating capacity of which exceeds eighteen	
	The rate specified in (c) above plus Rs. 60/- for every person in addition to eighteen persons subject to a maximum of Rs. 2,200/- per annum.

<i>Description of motor vehicles</i>	<i>Annual rate of tax</i>
	Rs.
VI. Break-down vans used for towing disabled vehicles . . . . .	200/-
VII. Motor vehicles other than those liable to tax under the foregoing provisions of this Schedule—	
(a) Vehicles the registered unladen weight of which does not exceed 1000 kilograms . . . . .	80/-
(b) Vehicles the registered unladen weight of which exceeds 1000 kilograms but does not exceed 1500 kilograms . . . . .	100/-
(c) Vehicles the registered unladen weight of which exceeds 1500 kilograms but does not exceed 2000 kilograms . . . . .	140/-
(d) Vehicles the registered unladen weight of which exceeds 2000 kilograms. . . . .	The rate specified in (c) above <i>plus</i> Rs. 100/- for every additional 1000 kilo- grams or part there- of in addition to 2000 kilograms.
(e) Additional tax payable in respect of such vehicles used for drawing trailers—	
(i) for each trailer the registered unladen weight of which does not exceed 1 tonne . . . . .	40/-
(ii) For each trailer the registered unladen weight of which exceeds 1 tonne. . . . .	80/-

Provided that two or more vehicles shall not be chargeable under this clause in respect of the same trailer.

**PART B.—**Motor vehicles other than those fitted solely with pneumatic tyres.

The rates shown in Part A *plus* 50 per cent. thereof.

**NOTE 1.—**When tax is paid for the whole year at a time, a rebate of 10 per cent. of the rates specified in this Schedule shall be allowed.

**NOTE 2.—**The registered unladen weight of a motor vehicle shall be as specified in the certificate of registration.

## SCHEDULE II

[See section 24(1)]

1. The Punjab Motor Vehicles Taxation Act, 1924 (Punjab Act 4 of 1924) as extended to Delhi.
  2. The Punjab Motor Vehicles Taxation (Amendment) Act, 1940 (Punjab Act 2 of 1940) as extended to Delhi.
  3. The Punjab Motor Vehicles Taxation (Delhi Amendment) Act, 1954 (6 of 1954).
  4. The Punjab Motor Vehicles Taxation (Delhi Amendment) Act, 1955 (2 of 1956).
  5. The Punjab Motor Vehicles Taxation (Delhi Amendment) Act, 1956 (10 of 1956).
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# THE WAREHOUSING CORPORATIONS ACT, 1962

## ARRANGEMENT OF SECTIONS

### CHAPTER I

#### PRELIMINARY

##### SECTIONS

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2. Definitions.

### CHAPTER II

#### THE CENTRAL WAREHOUSING CORPORATION

3. The Central Warehousing Corporation.
4. Share capital and shareholders.
5. Shares to be guaranteed by Central Government and to be trust or approved securities.
6. Management of Central Warehousing Corporation.
7. Directors.
8. Disqualification for office of director of the Central Warehousing Corporation.
9. Removal of directors from office.
10. Appointment of officers, etc., and their conditions of service.
11. Functions of Central Warehousing Corporation.
12. Executive Committee.
13. Meetings of the Corporation.
14. Grants and loans by the Central Government.
15. Corporation to maintain two funds.
16. Warehousing Fund.
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### CHAPTER III

#### STATE WAREHOUSING CORPORATIONS

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19. Share capital and shareholders.

**SECTIONS**

20. Management of a State Warehousing Corporation.
21. Disqualification for office of director of the Corporation.
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23. Appointment of officers, etc., and their conditions of service.
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27. Borrowing powers of Warehousing Corporation.
28. Deposit account.
29. Investment of funds.
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33. Delegation.
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35. Disputes between Central Warehousing Corporation and State Warehousing Corporation.
36. Declaration of fidelity and secrecy.
37. Indemnity of directors.
38. Offences.
39. Provisions relating to income-tax and super-tax.
40. Winding up of Warehousing Corporations.
41. Power to make rules.
42. Power of Warehousing Corporations to make regulations.
43. Repeal and savings.

**THE SCHEDULE**

# THE WAREHOUSING CORPORATIONS ACT, 1962

No. 58 OF 1962

[19th December, 1962]

An Act to provide for the incorporation and regulation of corporations for the purpose of warehousing of agricultural produce and certain other commodities and for matters connected therewith.

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

## CHAPTER I

### PRELIMINARY

1. (1) This Act may be called the Warehousing Corporations Short  
Act, 1962.  
title, ex-  
tent and  
commen-  
cement.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint.

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

Defini-  
tions.

(a) “agricultural produce” means any of the following classes of commodities, namely:—

- (i) foodstuffs, including edible oil-seeds;
- (ii) cattle fodder, including oil-cakes and other concentrates;
- (iii) raw cotton, whether ginned or unginned, and cotton seed;
- (iv) raw jute; and
- (v) vegetable oils;

(b) “appropriate Government” means in relation to the Central Warehousing Corporation, the Central Government, and in relation to a State Warehousing Corporation, the State Government;

18th March, 1963; vide Notification No. G.S.R. 463, dated 16-3-1963, Gazette of India, Extraordinary, Pt. II, Sec. 3(i), p. 155.

(c) "Central Warehousing Corporation" means the Central Warehousing Corporation established under section 3;

(d) "co-operative society" means a society registered or deemed to be registered under the Co-operative Societies Act, 1912, or under any other law with respect to co-operative societies for the time being in force in any State, which is engaged in the processing, marketing, storage, export or import of agricultural produce or any notified commodity or in insurance business and includes a co-operative land mortgage bank; 2 of 1912.

(e) "notified commodity" means any commodity (other than agricultural produce) which the Central Government may, by notification in the Official Gazette, declare to be a notified commodity for the purposes of this Act, being a commodity with respect to which Parliament has power to make laws by virtue of entry 33 in List III in the Seventh Schedule to the Constitution;

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

(g) "recognised association" means an association which is for the time being recognised by the Central Government under section 6 of the Forward Contracts (Regulation) Act, 1952; 74 of 1952.

(h) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934; 2 of 1934.

(i) "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.

(j) "State Bank" means the State Bank of India constituted under the State Bank of India Act, 1955; 23 of 1955.

(k) "State Warehousing Corporation" means a Warehousing Corporation for a State established or deemed to be established under this Act;

(l) "Warehousing Corporation" means a Warehousing Corporation established or deemed to be established under this Act; and

(m) "year" means the financial year.

CHAPTER II  
THE CENTRAL WAREHOUSING CORPORATION

3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Central Government shall establish a Corporation by the name of the Central Warehousing Corporation 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 the said name, sue and be sued.

(2) The head-office of the Central Warehousing Corporation shall be at New Delhi.

4. (1) The authorised share capital of the Central Warehousing Corporation shall be twenty crores of rupees divided into two hundred thousand shares of the face value of one thousand rupees each; any shares remaining to be issued may be issued, with the sanction of the Central Government from time to time, as and when the Central Warehousing Corporation may deem fit.

(2) The Central Government shall subscribe for forty per cent. of the share capital issued at any time and the remaining sixty per cent. of the share capital may be subscribed for, within such period and in such proportion as may be specified by the Central Government, by the following institutions, namely:—

- (a) the State Bank;
- (b) other scheduled banks;
- (c) co-operative societies;
- (d) insurance companies, investment trusts and other financial institutions;
- (e) recognised associations and companies dealing in agricultural produce or any notified commodity.

(3) If any portion of the sixty per cent. of the share capital referred to in sub-section (2) remains unallotted, it may be subscribed for by the Central Government and the State Bank in such proportion as may be agreed upon between them and in default of such agreement, as may be determined by the Central Government.

(4) The shares of the Central Warehousing Corporation shall not be transferable except to the Central Government, the State Bank, any scheduled bank, any insurance company, any investment trust or other financial institution or any co-operative society or any

The Central Warehousing Corporation.

Share capital and share-holders.

recognised association or company dealing in agricultural produce or any notified commodity, in accordance with the regulations made by the Central Warehousing Corporation under this Act.

Shares  
to be  
guar-  
anteed by  
Central  
Govern-  
ment and  
to be trust  
or approv-  
ed securi-  
ties.

5. (1) The shares of the Central Warehousing Corporation shall be guaranteed by the Central Government as to the repayment of the principal and the payment of the annual dividend at such minimum rate as may be fixed by the Central Government, by notification published in the Official Gazette, at the time of the issue of the shares.

(2) Notwithstanding anything contained in the Acts mentioned in this sub-section, the shares of the Central Warehousing Corporation shall be deemed to be included among the securities enumerated in section 20 of the Indian Trusts Act, 1882, and also to be approved securities for the purpose of the Insurance Act, 1938 and the Banking Companies Act, 1949.

2 of 1882.  
4 of 1938.  
10 of 1949.

Manage-  
ment of  
Central  
Ware-  
housing  
Corpora-  
tion.

6. (1) The general superintendence and management of the affairs and business of the Central Warehousing Corporation shall vest in a board of directors who, with the assistance of an Executive Committee and a managing director, may exercise all the powers and discharge all the functions which may be exercised or discharged by the Central Warehousing Corporation under this Act.

(2) The board of directors shall act on business principles having regard to public interest and shall be guided by such instructions on questions of policy as may be given to them by the Central Government.

(3) If any doubt arises as to whether a question is or is not a question of policy, the decision of the Central Government shall be final.

Directors.

7. (1) The board of directors referred to in section 6 shall consist of the following, namely:—

- (a) six directors to be nominated by the Central Government;
- (b) one director to be nominated by the National Co-operative Development Corporation established under the National Co-operative Development Corporation Act, 1962;
- (c) one director to be nominated by the State Bank;
- (d) one director to be elected by other scheduled banks;
- (e) one director to be elected by co-operative societies;

26 of 1962.

(f) one director to be elected by insurance companies, investment trusts and other financial institutions, recognised associations and companies dealing in agricultural produce or notified commodities;

(g) a managing director, appointed by the Central Government in consultation with the directors referred to in clauses (a) to (f):

Provided that the three directors to be elected under clauses (d), (e) and (f) may, for the first constitution of the board of directors, be nominated by the Central Government in such manner as to give representation to each class of institutions (whether they have become shareholders of the Corporation or not) referred to in those clauses, but a director so nominated shall hold office only until he is replaced by a director elected as provided in that clause, and the director so elected shall hold office only for so long as the director replaced would have held office had he not been replaced.

(2) The directors referred to in clauses (d), (e) and (f) of sub-section (1) shall be elected in the prescribed manner.

(3) If, within the period prescribed in this behalf, or within such further period as the Central Government may allow, the institutions referred to in clause (d) or clause (e) or clause (f) of sub-section (1) fail to elect a director, the Central Government may nominate a director to fill the vacancy.

(4) The board of directors shall have a Chairman and a Vice-Chairman who shall be appointed by the Central Government from among the directors.

(5) The managing director shall—

(a) exercise such powers and perform such duties as the board of directors or the Central Warehousing Corporation may entrust or delegate to him; and

(b) receive such salary and allowances as the Central Warehousing Corporation may, with the approval of the Central Government, fix.

(6) The directors of the Central Warehousing Corporation other than the managing director shall be entitled to receive by way of remuneration such sums as the Central Warehousing Corporation may, with the approval of the Central Government, fix:

Provided that no official director shall be entitled to receive any remuneration other than the allowances, if any, admissible to him under the rules regulating his conditions of service.

(7) The term of office of, and the manner of filling casual vacancies among, the directors shall be such as may be prescribed.

**Disqualification for office of Director of the Central Warehousing Corporation.**

8. A person shall be disqualified for being chosen as, and for being, a director of the Central Warehousing Corporation—

(i) if he is found to be a lunatic or becomes of unsound mind; or

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

(iii) if he is or has been convicted of any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months, unless a period of five years has elapsed from the date of expiry of the sentence; or

(iv) if he has been removed or dismissed from the service of Government or a Corporation owned and controlled by the Government; or

(v) except in the case of the managing director, if he is a salaried official of the Central Warehousing Corporation or any State Warehousing Corporation; or

(vi) if he is personally interested in any subsisting contract made with, or in any work being done for the Central Warehousing Corporation except as a shareholder (other than a director) in any public company as defined in the Companies Act, 1956:

1 of 1956.

Provided that where any such person is a shareholder, he shall disclose to the Central Warehousing Corporation the nature and extent of shares held by him in such company.

**Removal of directors from office.**

9. (1) The Central Government may, at any time in consultation with the Central Warehousing Corporation, remove the managing director from office after giving him a reasonable opportunity of showing cause against the proposed removal.

(2) The board of directors may remove from office any director who—

(a) is or has become subject to any of the disqualifications mentioned in section 8; or

(b) is absent without leave of the board of directors for more than three consecutive meetings of the board without cause sufficient in the opinion of the board, to exonerate his absence.

**10. (1)** The Central Warehousing Corporation may appoint such officers and other employees as it considers necessary for the efficient performance of its functions.

(2) Every person employed by the Central Warehousing Corporation under this Act shall be subject to such conditions of service and shall be entitled to such remuneration as may be determined by regulations made by the Corporation under this Act.

**11.** Subject to the provisions of this Act, the Central Warehousing Corporation may—

(a) acquire and build godowns and warehouses at such suitable places in India as it thinks fit;

(b) run warehouses for the storage of agricultural produce, seeds, manures, fertilizers, agricultural implements and notified commodities offered by individuals, co-operative societies and other institutions;

(c) arrange facilities for the transport of agricultural produce, seeds, manures, fertilizers, agricultural implements and notified commodities to and from warehouses;

(d) subscribe to the share capital of a State Warehousing Corporation;

(e) act as agent of the Government for the purposes of the purchase, sale, storage and distribution of agricultural produce, seeds, manures, fertilizers, agricultural implements and notified commodities; and

(f) carry out such other functions as may be prescribed.

**12. (1)** There shall be an Executive Committee of the Central Warehousing Corporation which shall consist of—

(a) the Chairman and the Vice-Chairman of the board of directors;

(b) the managing director; and

(c) two other directors chosen by the Corporation in the prescribed manner.

Appointment of  
officers,  
etc., and  
their con-  
ditions of  
service.

Func-  
tions of  
Central  
Ware-  
housing  
Corpo-  
ration.

Executive  
Com-  
mittee.

(2) The Chairman and the Vice-Chairman of the board of directors shall be the Chairman and the Vice-Chairman respectively of the Executive Committee.

(3) Subject to the general control, direction and superintendence of the board of directors, the Executive Committee shall be competent to deal with any matter within the competence of the Central Warehousing Corporation.

Meetings  
of the  
Corpora-  
tion.

13. (1) The annual general meeting of the Central Warehousing Corporation (hereinafter referred to as the annual general meeting) shall be held every year either at its head-office or at any other office of the Corporation within six months of the close of the financial year, and any other general meeting may be convened by the board of directors at any other time.

(2) The shareholders present at the annual general meeting shall be entitled to discuss the annual accounts, the report of the board of directors on the working of the Corporation during the year under report, as well as the auditors' report on the annual balance-sheet and accounts.

(3) The board of directors of the Central Warehousing Corporation shall, on the requisition of one-third of the number of shareholders of the Corporation, call a special meeting of the Corporation.

(4) The requisition for a special meeting under sub-section (3) shall state the object of the meeting, and shall be signed by the requisitionists and deposited at the head-office of the Corporation, and may consist of several documents in like form each signed by one or more requisitionists.

(5) If the board of directors of the Central Warehousing Corporation do not proceed within twenty-one days from the date of the requisition being so deposited to cause the special meeting to be called, the requisitionists, or a majority of them, may, themselves call the meeting, but in either case, the meeting so called shall be held within three months from the date of the deposit of the requisition.

(6) The Central Warehousing Corporation shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at meetings) as may be provided by regulations made by the Central Warehousing Corporation under this Act.

**14.** (1) The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Central Warehousing Corporation for the purposes of either fund maintained by the Corporation—

Grants and  
loans  
by the  
Central  
Govern-  
ment.

(a) by way of grants, such sums of money as the Central Government may consider necessary; and

(b) by way of loans, such sums of money on such terms and conditions as the Central Government may determine.

(2) When making a payment under sub-section (1), the Central Government shall specify the fund for the purposes of which the payment is made.

**15.** The Central Warehousing Corporation shall maintain two separate funds, namely:—

Corpora-  
tion to  
maintain  
two funds.

(a) the Central Warehousing Fund (hereinafter referred to as the Warehousing Fund); and

(b) the General Fund.

**16.** (1) To the Warehousing Fund shall be credited—

Ware-  
housing  
Fund.

(a) all moneys and other securities transferred to the Central Warehousing Corporation under clause (c) of sub-section (2) of section 43;

(b) such grants and loans as the Central Government may make for the purposes of the Warehousing Fund; and

(c) such sums of money as may, from time to time, be realised out of the loans made from the Warehousing Fund or from interest on loans or dividends on investments made from that fund.

(2) The Warehousing Fund shall be applied—

(a) for advancing loans to State Governments on such terms and conditions as the Central Warehousing Corporation may deem fit for the purpose of enabling them to subscribe to the share capital of State Warehousing Corporations;

(b) for advancing loans and granting subsidies to State Warehousing Corporations or to State Governments on such terms and conditions as the Central Warehousing Corporation may deem fit for the purpose of promoting the warehousing and storage of agricultural produce and notified commodities, otherwise than through co-operative societies.

**General  
Fund.**

17. (1) To the General Fund shall be credited—

(a) all sums received by the Central Warehousing Corporation other than those referred to in sub-section (1) of section 16; and

(b) such grants and loans as the Central Government may make for the purposes of the General Fund.

(2) The General Fund shall be applied—

(a) for meeting the salary, allowances and other remuneration of the officers and other employees of the Central Warehousing Corporation;

(b) for meeting the other administrative expenses of the Corporation; and

(c) for carrying out the purposes of this Act.

### CHAPTER III

#### STATE WAREHOUSING CORPORATIONS

**State  
Ware-  
housing  
Corpora-  
tions.**

18. (1) The State Government may, by notification in the Official Gazette and with the approval of the Central Warehousing Corporation, establish a Warehousing Corporation for the State under such name as may be specified in the notification.

(2) A State Warehousing Corporation established under sub-section (1) shall be a body corporate by the name notified under that sub-section, having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to contract and may, by the said name, sue and be sued.

(3) The head-office of a State Warehousing Corporation shall be at such place within the State as may be notified in the Official Gazette.

(4) Notwithstanding anything contained in sub-sections (1), (2) and (3), it shall not be necessary for the State Government to establish a Corporation under sub-section (1) where, under clause (g) of sub-section (2) of section 43, a Corporation is deemed to be established for that State under this Act.

**19.** (1) The authorised capital of a State Warehousing Corporation shall be such sum not exceeding two crores of rupees as may be prescribed, divided into shares of the face value of one hundred rupees each, of which such number as may be determined by the Corporation in consultation with the State Government shall be issued in the first instance and the remaining shares may be issued, from time to time, as and when the Corporation may deem fit after consultation with the Central Warehousing Corporation and with the sanction of the State Government.

(2) Of the share capital issued in the first instance and of any subsequent issue of such capital, the Central Warehousing Corporation shall, in any case where the State Government has subscribed for fifty per cent. of such capital, subscribe for the remaining fifty per cent. of the capital.

**20.** (1) The general superintendence and management of the affairs of a State Warehousing Corporation shall vest in a board of directors which shall consist of the following, namely:—

(a) five directors nominated by the Central Warehousing Corporation, of whom one shall be nominated in consultation with the State Bank and one at least shall be a non-official;

(b) five directors nominated by the State Government; and

(c) a managing director, appointed by the State Government in consultation with the directors referred to in clauses (a) and (b) and with the previous approval of the Central Warehousing Corporation.

(2) The Chairman of the board of directors shall be appointed by the State Government from among the directors of the State Warehousing Corporation with the previous approval of the Central Warehousing Corporation.

(3) The managing director shall—

(a) exercise such powers and perform such duties as the board of directors or the State Warehousing Corporation may entrust or delegate to him; and

(b) receive such salary and allowances as the State Warehousing Corporation may, in consultation with the Central Warehousing Corporation, and with the previous approval of the State Government, fix.

(4) The board of directors shall act on business principles having regard to public interest and shall be guided by such instructions on

questions of policy as may be given to them by the State Government or the Central Warehousing Corporation.

(5) If any doubt arises as to whether a question is or is not a question of policy, or, if the State Government and the Central Warehousing Corporation give conflicting instructions, the matter shall be referred to the Central Government whose decision thereon shall be final.

(6) The directors of a State Warehousing Corporation, other than the managing director, shall be entitled to receive by way of remuneration such sums as may be prescribed:

Provided that no official director shall be entitled to receive any remuneration other than any allowances admissible to him under the rules regulating his conditions of service.

(7) The term of office of, and the manner of filling casual vacancies among, directors shall be such as may be prescribed.

**Disqualification for office of director of the Corporation,**

21. A person shall be disqualified for being chosen as, and for being, a director of a State Warehousing Corporation—

(i) if he is found to be a lunatic or becomes of unsound mind; or

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

(iii) if he is or has been convicted of any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months, unless a period of five years has elapsed from the date of expiry of the sentence; or

(iv) if he has been removed or dismissed from service of Government or a corporation owned and controlled by the Government; or

(v) except in the case of the managing director, if he is a salaried official of the Central Warehousing Corporation or a State Warehousing Corporation; or

(vi) if he is personally interested in a subsisting contract made with, or in any work being done for, the State Warehousing Corporation except as a shareholder (other than a director) in any public company as defined in the Companies Act, 1956:

Provided that where any such person is a shareholder, he shall disclose to the Warehousing Corporation the nature and extent of the shares held by him in such company.

**22.** (1) The State Government may, at any time, with the previous approval of the Central Warehousing Corporation, remove the managing director from office after giving him a reasonable opportunity of showing cause against the proposed removal.

Removal  
of direc-  
tors from  
office.

(2) The board of directors may remove from office any director who—

(a) is or has become subject to any of the disqualifications mentioned in section 21; or

(b) is absent without leave of the board of directors for more than three consecutive meetings of the board without cause sufficient, in the opinion of the board, to exonerate his absence.

**23.** (1) A State Warehousing Corporation may appoint such officers and other employees as it considers necessary for the efficient performance of its functions.

Appoint-  
ment of  
officers,  
etc., and  
their con-  
ditions of  
service.

(2) Every person employed by a State Warehousing Corporation under this Act shall be subject to such conditions of service and shall be entitled to such remuneration as may be determined by regulations made by the Corporation under this Act.

**24.** Subject to the provisions of this Act, a State Warehousing Corporation may—

Functions  
of the  
State  
Ware-  
housing  
Corpora-  
tion.

(a) acquire and build godowns and warehouses at such places within the State as it may, with the previous approval of the Central Warehousing Corporation, determine;

(b) run warehouses in the State for the storage of agricultural produce, seeds, manures, fertilizers, agricultural implements and notified commodities;

(c) arrange facilities for the transport of agricultural produce, seeds, manures, fertilizers, agricultural implements and notified commodities to and from warehouses;

(d) act as an agent of the Central Warehousing Corporation or of the Government for the purposes of the purchase, sale, storage and distribution, of agricultural produce, seeds, manures, fertilizers, agricultural implements and notified commodities; and

(e) carry out such other functions as may be prescribed.

**Executive  
Com-  
mittee.**

25. (1) There shall be an Executive Committee of a State Warehousing Corporation which shall consist of—

- (a) the Chairman of the board of directors;
- (b) the managing director; and

(c) three other directors chosen in the prescribed manner, of whom one shall be a director referred to in clause (a) of sub-section (1) of section 20.

(2) The Chairman of the board of directors shall be the Chairman of the Executive Committee.

(3) Subject to any general or special directions as the board of directors may, from time to time, give, the Executive Committee shall be competent to deal with any matter within the competence of the State Warehousing Corporation.

#### CHAPTER IV

##### FINANCE, ACCOUNTS AND AUDIT

**Submis-  
sion of pro-  
gramme  
of activi-  
ties and  
financial  
estimates.**

26. (1) Every Warehousing Corporation shall prepare before the commencement of each year a statement of programme of its activities during the forthcoming year as well as a financial estimate in respect thereof.

(2) A statement prepared under sub-section (1) shall, not later than three months before the commencement of each year, be submitted for approval—

(a) in the case of the Central Warehousing Corporation, to the Central Government;

(b) in the case of a State Warehousing Corporation, to the Central Warehousing Corporation and the State Government.

(3) The statement and the financial estimate of a Warehousing Corporation referred to in sub-section (1) may, with the approval of the Central Government in the case of the Central Warehousing Corporation, or with the approval of the Central Warehousing Corporation and the State Government in the case of a State Warehousing Corporation, be revised by the Warehousing Corporation.

**Borrowing  
powers of  
Ware-  
housing  
Corpora-  
tion.**

27. (1) A Warehousing Corporation may, in consultation with the Reserve Bank and with the previous approval of the appropriate Government, issue and sell bonds and debentures carrying interest for the purpose of raising funds:

Provided that the total amount of bonds and debentures issued and outstanding and of the other borrowings of the Corporation

shall not at any time exceed ten times the amount of the paid-up share capital and the reserve fund of the Corporation.

(2) A Warehousing Corporation may, for the purpose of carrying out its functions under this Act, borrow money—

(i) from the Reserve Bank, or

(ii) from the State Bank, for such periods for which, and upon any of the securities against which, it is authorised to advance and lend moneys, under the provisions of the State Bank of India Act, 1955.

(3) Subject to the proviso to sub-section (1), the Central Warehousing Corporation may borrow money from the Central Government and a State Warehousing Corporation may borrow money from the State Government and the Central Warehousing Corporation on such securities and on such terms and conditions as may be agreed upon between the borrowing corporation and the lender, in each case.

(4) The bonds and debentures of a Warehousing Corporation may be guaranteed by the appropriate Government as to the repayment of principal and the payment of interest at such rate as may be fixed by the appropriate Government on the recommendation of the board of directors of the Corporation at the time the bonds or debentures are issued.

28. All moneys belonging to a Warehousing Corporation shall be deposited in the Reserve Bank or the State Bank or, subject to account. any rules made under this Act, in any scheduled bank or co-operative bank.

29. A Warehousing Corporation may invest its funds in the securities of the Central or any State Government or in such other manner as may be prescribed by the appropriate Government. Investment of funds.

30. (1) Every Warehousing Corporation shall establish a reserve fund out of its annual net profits. Disposal of profits.

(2) After making provision for bad and doubtful debts, depreciation on assets and all other matters which are usually provided for by companies registered and incorporated under the Companies Act, 1956, a Warehousing 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 Central Warehousing Corporation and until there has been repaid to the Central Government such sum, if any, as that Government may have paid under a guarantee given in pursuance of sub-section (1) of section 5 or sub-section (4) of

section 27, the rate of such dividend, in the case of the Central Warehousing Corporation, shall not exceed the rate guaranteed by the Central Government under sub-section (1) of section 5.

Accounts  
and audit  
of Ware-  
housing  
Corpora-  
tion.

31. (1) Every Warehousing Corporation shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the profit and loss account and the balance sheet in such form as may be prescribed:

Provided that, in the case of the Central Warehousing Corporation, the accounts relating to the Warehousing Fund and the General Fund shall be maintained separately.

(2) The accounts of a Warehousing Corporation shall be audited by an auditor duly qualified to act as an auditor of companies under section 226 of the Companies Act, 1956.

1 of 1956.

(3) The said auditor shall be appointed by the appropriate Government on the advice of the Comptroller and Auditor-General of India.

(4) The auditor shall be supplied with a copy of the annual balance sheet and the profit and loss account of the Warehousing Corporation and it shall be his duty to examine them 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 and other documents of the Corporation and may require from any officer of the Corporation such information and explanations as the auditor may think necessary for the performance of his duties as auditor.

(5) The auditor shall make a report to the shareholders on the accounts examined by him and on the annual balance sheet and the profit and loss account and in every such report, he shall state whether in his opinion the accounts give a true and fair view—

(a) in the case of the balance sheet, of the state of the Corporation's affairs at the end of its financial year, and

(b) in the case of the profit and loss account, of the profit or loss for its financial year,

and in case he has called for any explanation or information from the officers, whether it has been given and whether it is satisfactory.

(6) The appropriate Government may, after consultation with the Comptroller and Auditor-General of India at any time issue directions

to the auditor requiring him to report to the appropriate Government upon the adequacy of measures taken by a Warehousing Corporation for the protection of its shareholders and creditors or upon the sufficiency of his procedure in auditing the accounts of the Corporation and may enlarge or extend the scope of the audit or direct that a different procedure in audit may be adopted or direct that any other examination may be made by the auditor if in the opinion of the appropriate Government public interest so requires.

(7) A Warehousing Corporation shall send a copy of every report of the auditor to the Comptroller and Auditor-General of India and to the Central Government at least one month before it is placed before the shareholders.

(8) Notwithstanding anything hereinbefore contained in this section, the Comptroller and Auditor-General of India may, either of his own motion or on a request received in this behalf from the appropriate Government, undertake in respect of a Warehousing Corporation such audit and at such time as he may consider necessary:

Provided that where the Central Government is required to make any payment on account of the guarantee given by it under sub-section (1) of section 5, such audit shall be undertaken by the Comptroller and Auditor-General of India or any person authorised by him in this behalf.

(9) The Comptroller and Auditor-General of India and any person authorised by him in connection with the audit of the accounts of a Warehousing Corporation shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General 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 the office of the Corporation.

(10) The annual accounts of a Warehousing Corporation together with the audit report thereon shall be placed before the annual general meeting of the Corporation within six months of the close of the financial year.

(11) Every audit report under this section shall be forwarded to the appropriate Government within a month of its being placed before the annual general meeting and that Government shall as soon thereafter as may be cause the same to be laid before both Houses of Parliament or the Legislature of the State, as the case may be.

## CHAPTER V

## MISCELLANEOUS

Vacancies,  
etc., not to  
invalidate  
acts and  
proceed-  
ings of  
Ware-  
housing  
Corpora-  
tions.

Delega-  
tion.

Voting  
rights of  
share-  
holders.

Disputes  
between  
Central  
Ware-  
housing  
Corpora-  
tion and  
State  
Ware-  
housing  
Corpora-  
tion.

Declara-  
tion of  
fidelity  
and  
secrecy.

Indemnity  
of direc-  
tors.

**32.** No act or proceeding of a Warehousing Corporation shall be invalid by reason only of the existence of any vacancy among its directors or any defect in the constitution thereof.

**33.** A Warehousing Corporation may, by general or special order in writing, delegate to the Secretary or 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 functions under this Act as it may deem necessary for the efficient performance of its functions.

**34.** In any meeting of the shareholders of a Warehousing Corporation, every member shall have one vote in respect of each share held by him in the Corporation.

**35.** If there is any difference of opinion between the Central Warehousing Corporation and a State Warehousing Corporation regarding their respective functions and powers under this Act, such difference shall be referred to the Central Government whose decision thereon shall be final.

**36.** Every director, auditor, officer or other employee of a Warehousing Corporation shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the Schedule.

**37. (1)** Every director of a Warehousing Corporation shall be indemnified by the Corporation concerned against all losses and expenses incurred in the discharge of his duties except such as are caused by his own wilful act or default.

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

**38.** (1) Whoever, without the consent in writing of a Warehousing Corporation, uses the name of that Corporation in any prospectus or advertisement, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) No court shall take cognizance of any offence under sub-section (1) otherwise than on a complaint in writing by an officer authorised in this behalf by the Warehousing Corporation concerned.

43 of 1961.

**39.** For the purposes of the Income-tax Act, 1961, a Warehousing Corporation shall be deemed to be a company within the meaning of that Act and shall be liable to income-tax and super-tax accordingly on its income, profits and gains:

Provided that, in the case of the Central Warehousing Corporation, any sum paid by the Central Government under the guarantee given in pursuance of sub-section (1) of section 5 or, in the case of a Warehousing Corporation, any sum paid by the Central or a State Government under any guarantee given in pursuance of sub-section (4) of section 27 shall not be treated as income, profits and gains of a Warehousing Corporation, and any interest on the debentures or bonds issued by that Corporation out of such sums shall not be treated as expenditure incurred by it:

Provided further that in the case of any shareholder or debenture-holder, such portion of a dividend or interest 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 section 86 of that Act.

**40.** No provision of law relating to the winding up of companies or corporations shall apply to a Warehousing Corporation and any such Corporation shall not be placed in liquidation save by order of the appropriate Government and in such manner as it may direct.

Winding up of Warehousing Corporations.

**41.** (1) The appropriate Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power to make rules.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the additional functions which a Warehousing Corporation may perform;

(b) the manner of nomination and election of the directors of the Central Warehousing Corporation and the period within which such directors shall be nominated or elected;

(c) the term of office of, and the manner of filling casual vacancies among, and the remuneration payable to, the directors of a Warehousing Corporation;

- (d) the manner of choosing directors on the Executive Committee of a Warehousing Corporation;
- (e) the authorised capital of a State Warehousing Corporation within the limit specified in sub-section (1) of section 19;
- (f) the form of the annual statement of accounts and the balance-sheet to be prepared by a Warehousing Corporation;
- (g) the deposit of moneys of a Warehousing Corporation in a scheduled bank or a co-operative bank;
- (h) the manner of issuing shares of a Warehousing Corporation, the calls to be made in respect thereof, and all other matters incidental to the issue of shares;
- (i) any other matter which has to be or may be prescribed.

(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.

**Power of Warehousing Corporations to make regulations.**

42. (1) A Warehousing Corporation may, with the previous sanction of the appropriate 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 purposes 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 conditions of service of, and the remuneration payable to, the officers and other employees of a Warehousing Corporation;
- (b) the manner in which, and the conditions subject to which, shares of the Central Warehousing Corporation may be transferred;
- (c) the manner in which meetings of a Warehousing Corporation and the Executive Committee thereof shall be convened, the fees for attending such meetings and the procedure to be followed thereat;

(d) the duties and conduct of officers and employees of a Warehousing Corporation;

(e) the powers and duties which may be entrusted or delegated to the managing director of a Warehousing Corporation;

(f) generally, the efficient conduct of the affairs of a Warehousing Corporation.

(3) The appropriate Government may, by notification in the Official Gazette, rescind any regulation which it has sanctioned and thereupon the regulation shall cease to have effect.

**43.** (1) With effect from the date on which the Central Warehousing Corporation is established under section 3, the Agricultural Produce (Development and Warehousing) Corporations Act, 1956, in so far as it has not been repealed by the National Co-operative Development Corporation Act, 1962, shall stand repealed.

Repeal  
and sav-  
ings.

28 of 1956. Produce (Development and Warehousing) Corporations Act, 1956, in so far as it has not been repealed by the National Co-operative Development Corporation Act, 1962, shall stand repealed.

(2) Notwithstanding such repeal,—

(a) the shares allotted and the share certificates issued by the Central Warehousing Corporation established under the repealed Act (hereinafter referred to as the said Corporation) shall be deemed to have been allotted and issued by the Corporation established under section 3 of this Act as if this Act had been in force on the day on which the shares were allotted and the share certificates were issued;

(b) every shareholder of the said Corporation shall become the holder of as many shares in the Corporation established under section 3 of this Act as are equivalent in number and value to the shares held by him in the said Corporation;

(c) all moneys and other securities belonging to the National Warehousing Development Fund which, immediately before the said date, was maintained by the said Corporation shall stand transferred to and be maintained by the Corporation established under section 3 of this Act;

(d) anything done or any action taken (including any appointment, nomination, delegation, rule or regulation made) under the repealed Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under this Act;

(e) every share held by the said Corporation in a State Warehousing Corporation under the repealed Act shall be deemed to be a share held by the Corporation established under section 3 of this Act in the corresponding State Warehousing Corporation deemed to be established under this Act;

(f) all rights, liabilities and obligations of the said Corporation, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations respectively of the Corporation established under section 3 of this Act;

(g) a State Warehousing Corporation established for a State under the repealed Act shall be deemed to be the State Warehousing Corporation established for that State under this Act.

#### THE SCHEDELE

(See section 36)

#### DECLARATION OF FIDELITY AND SECRECY

I, [REDACTED], declare that I will faithfully, truly and to the best of my judgment, skill and ability execute and perform the duties which are required of me as a director, officer, employee or auditor (as the case may be) of the Warehousing Corporation and which properly relate to the office or position in the said Corporation held by me.

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 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 Corporation and relating to the business of the Corporation.

Signature

Signature

Signature

Signed before me

Date

THE PERSONAL INJURIES (EMERGENCY  
PROVISIONS) ACT, 1962

No. 59 OF 1962

[19th December, 1962]

An Act to make provision for the grant of relief in respect of certain personal injuries sustained during the period of the emergency.

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

1. (1) This Act may be called the Personal Injuries (Emergency Provisions) Act, 1962. Short title,  
extent and  
commencement.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 26th day of October, 1962.

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

(1) "civil defence organisation" means any organisation established for civil defence purposes which is declared by a scheme to be a civil defence organisation for the purposes of this Act and the scheme;

(2) "civil defence volunteer", in relation to an injury, means a person certified, by an officer of a civil defence organisation authorised by the Central Government to grant such certificates, to have been a member of that organisation at the time when the injury was sustained;

(3) "enemy" means—

(i) any person or country committing external aggression against India;

(ii) any person belonging to a country committing such aggression;

(iii) such other country as may be declared by the Central Government to be assisting the country committing such aggression;

(iv) any person belonging to such other country;

(4) "gainfully occupied person" means a person who is engaged in any trade, business, profession, office, employment or vocation and is wholly or substantially dependent thereon for a livelihood, or a person who, though temporarily unemployed, is normally so engaged and dependent;

(5) "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 a notification in the Official Gazette, declare to be the date on which the emergency shall come to an end;

(6) "personal injury" means a physical or mental injury or a disease whether manifesting itself immediately or subsequently—

(a) caused by—

(i) the discharge of any missile (including liquid or gas or both), or

(ii) the use of any weapon, explosive or other noxious thing, or

(iii) the doing of any other injurious act,

either by the enemy or in combating the enemy or in repelling an imagined attack by the enemy; or

(b) caused by the impact, on any person or property, of any enemy aircraft or any aircraft belonging to or held by any person on behalf of or for the benefit of the Government of India or any allied power, or any part of, or anything dropped from, any such aircraft: or

(c) caused by any explosion or fire which involves any explosives or munitions or other dangerous things, required for the purposes of defence against the enemy and which happens or is caused by, through, or in connection with the manufacture, storage or transportation of any such explosive, munition or other dangerous things;

(7) "personal service injury", in relation to a civil defence volunteer, means any physical or mental injury, or a disease whether manifesting itself immediately or subsequently, shown to the satisfaction of the Central Government or other authority authorised to make payments under a scheme, to have arisen out of and in the course of the performance by the volunteer of his duties as a member of the civil defence organisation to which he belonged at the time when the injury was sustained or the disease was contracted, and (except in the case of a personal injury) not to have arisen out of, and in the course of, his employment in any other capacity:

Provided that before being so satisfied, the Central Government or other authority authorised to make payments under a scheme shall have received from the civil defence organisation of which the volunteer concerned was a member at the time when the injury was sustained or the disease was contracted, a report, by an officer of the organisation authorised by the Central Government to make such reports, about the injury or the disease in question;

(8) "scheme" means a scheme made under this Act.

3. (1) The Central Government may make a scheme or schemes in accordance with the provisions of this Act providing for the grant of relief in respect of the following injuries sustained during the period of the emergency, namely:—

(a) personal injuries sustained by gainfully occupied persons (with such exceptions, if any, as may be specified in the scheme) and by persons of such other classes as may be so specified; and

(b) personal service injuries sustained by civil defence volunteers.

(2) A scheme may authorise the Central Government or any authority authorised by the Central Government to make payments under the scheme, in such circumstances and subject to such conditions as may be specified in the scheme, to make to or in

Power to  
make  
schemes  
for relief  
in respect  
of personal  
injuries  
and perso-  
nal service  
injuries.

respect of persons injured, diseased or disabled due to injuries or any disease—

(a) payments by way of temporary allowance, which shall be payable only so long as the person injured or diseased is incapacitated for work by the injury or disease and has not received any such payment as is mentioned in clause (b);

(b) payments otherwise than by way of temporary allowance, which shall be payable only where the injury or disease causes serious and prolonged or permanent disablement or death; and

(c) payments for the purchase of or the grant at the cost of Government of artificial limbs or surgical or other appliances and payments for medical and surgical treatment.

(3) A scheme may empower the Central Government to make regulations for giving effect to the purposes of the scheme.

(4) A 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.

(5) A scheme may be amended or rescinded at any time by the Central Government.

(6) Any decision of the Central Government or other authority empowered to make payments under a scheme as to the making, refusal of amount, or as to the continuance or discontinuance, of a payment under a scheme may be varied, from time to time, by a subsequent decision of the Central Government or such authority, as the case may be, but save in so far as it is so varied shall be final and conclusive.

(7) Every scheme and every regulation made under a scheme, 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 scheme or the regulation or both Houses agree that the scheme or the regulation should not be made, the scheme or the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that scheme or the regulation.

Relief  
from  
liability to  
pay com-  
pensation  
or damages.

4. (1) In respect of a personal injury sustained during the period of the emergency by any other person, and in respect of a personal service injury sustained during that period by a civil defence volunteer, no such compensation or damages shall be payable,

whether to the person injured or to any other person, as part from the provisions of this sub-section—

(a) would be payable under—

8 of 1938.

(i) the Workmen's Compensation Act, 1928, or

34 of 1948.

(ii) the Employees' State Insurance Act, 1948; or

(b) would, whether by virtue of any enactment or by virtue of any contract or any custom or usage having the force of law, be payable—

(i) in the case of a personal injury, by any person, or

(ii) in the case of a personal service injury sustained by a civil defence volunteer, by the employer of the volunteer, or by any person who has any responsibility in connection with the volunteer's duties as such or by any other civil defence volunteer,

on the ground that the injury in question was attributable to some negligence, nuisance or breach of duty for which the person by whom the compensation or damages would be payable is responsible.

(2) The failure to give a notice or make a claim or commence proceedings within the time required by any enactment shall not be a bar to the maintenance of proceedings in respect of any personal injury or personal service injury, if—

(a) an application for a payment under a scheme has been duly made to the Central Government or other authority empowered to make payments under the scheme in respect of the injury; and

(b) the court or other authority before which the proceedings are brought, is satisfied that the said application was made in the reasonable belief that the injury was such that a payment could be made under the scheme; and

(c) the Central Government or other authority empowered to make payments under the scheme certifies that the application was rejected, or that payments made in pursuance of the application were discontinued, on the ground that the injury was not such an injury; and

(d) the proceedings are commenced within one month from the date of the said certificate.

5. (1) Where it is necessary, in order to determine the amount of any payment to be awarded under a scheme in respect of any personal injury or personal service injury, to ascertain the earnings of

Information as to  
earnings.

the person injured in respect of any period before he sustained the personal injury or the personal service injury, the Central Government or other authority authorised to make payments under the scheme may, by notice in writing, require—

(a) any person who was an employer of the injured person during that period; or

(b) any other person having any knowledge with respect to the financial circumstances of the injured person during that period,

to furnish in accordance with the notice any information in his possession relating to those earnings or circumstances, and to produce to any person specified in the notice any wage books, records or other documents in his possession containing entries with respect to those earnings.

(2) If any person—

(a) fails to comply with the requirements of any such notice, or

(b) in purported compliance with any such notice, knowingly or recklessly makes any untrue statement or untrue representation, or produces any document which is false in a material particular or calculated to deceive,

he shall be punishable with fine which may extend to five hundred rupees.

**Medical attention  
in dispensaries and  
hospitals.**

6. (1) The person managing any dispensary or hospital shall, if so required by the Central or a State Government by general or special order,—

(a) provide at the dispensary or hospital medical and surgical treatment for persons who have sustained injuries of the nature specified in sub-section (1) of section 3, and

(b) keep such records and make such returns relating to the persons treated for such injuries as may be required by or under a scheme.

(2) If any person fails to comply, when so required, with the provisions of this section, he shall be punishable with fine which may extend to one thousand rupees.

**Penalty  
for false  
statement.**

7. Any person who, for the purpose of obtaining a payment or grant under a scheme either for himself or for any other person, knowingly makes any untrue statement or untrue representation shall be punishable with imprisonment for a term which may extend to three months.

8. Any assignment of, or charge on, and any agreement to assign Assignments or  
or charge, any payment awarded or to be awarded under a scheme charges to  
shall be void, and, on the insolvency of any person to whom such be void.  
a payment has been awarded, the payment shall not pass to any trustee or other person acting on behalf of the creditors.

THE MULTI-UNIT CO-OPERATIVE SOCIETIES  
(AMENDMENT) ACT, 1962

No. 60 OF 1962

[19th December, 1962]

An Act further to amend the Multi-unit Co-operative Societies  
Act, 1942

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 Multi-unit Co-operative Societies  
(Amendment) Act, 1962.

**Amend-  
ment of  
section  
5A.**

2. In section 5A of the Multi-unit Co-operative Societies Act, 1942 ~~6 of 1944~~  
(hereinafter referred to as the principal Act),—

(i) in sub-section (2), for the words "including proposals  
regarding the formation of new co-operative societies and the  
transfer thereto the assets and liabilities of that society", the  
following shall be substituted, namely:—

"including proposals regarding,—

(a) the formation of new co-operative societies and  
the transfer thereto, in whole or in part, of the assets  
and liabilities of that society; or

(b) the transfer, in whole or in part, of the assets  
and liabilities of that society to any other co-operative  
societies in existence immediately before the date of  
that meeting of the general body.";

(ii) after sub-section (4), the following sub-section shall be  
inserted, namely:—

"(4A) Notwithstanding anything contained in this  
section, where a scheme under sub-section (2) includes any  
proposal regarding the transfer of the assets and liabilities  
of any co-operative society to any other existing co-operative  
society referred to in clause (b) thereof, the scheme shall  
not be binding on that existing society or the shareholders  
and creditors thereof, unless the proposal regarding such  
transfer is accepted by the existing society by a resolution  
passed by a majority of the members present at a meeting  
of its general body."

3. Section 6 of the principal Act shall be re-numbered as sub-section (1) of that section and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

Amend-  
ment of  
section 6.

"(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.”

**THE DELIMITATION COMMISSION ACT, 1962**  
**No. 61 OF 1962**

[19th December, 1962]

An Act to provide for the readjustment of the allocation of seats in the House of the People to the States, the total number of seats in the Legislative Assembly of each State, the division of each State into territorial constituencies for elections to the House of the People and Legislative Assemblies of the States and for matters connected therewith.

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 Delimitation Commission Act, 1962.

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

(a) "article" means an article of the Constitution;

(b) "associate member" means a member nominated under section 5;

(c) "Commission" means the Delimitation Commission constituted under section 3;

(d) "latest census figures" mean the census figures as ascertained at the census held in 1961;

(e) "member" means a member of the Commission and includes the Chairman;

(f) "State" does not include the State of Jammu and Kashmir and the State of Nagaland.

**Constitu-** 3. (1) As soon as may be after the commencement of this Act,  
tion of  
Delimita- the Central Government shall constitute a Commission to be called  
tion Com- the Delimitation Commission which shall consist of three members  
mission. as follows:—

(a) two members, each of whom shall be person who is or has been a Judge of the Supreme Court or of a High Court, to be appointed by the Central Government, and

(b) the Chief Election Commissioner, *ex officio*.

(2) The Central Government shall nominate one of the members appointed under clause (a) of sub-section (1) to be the Chairman of the Commission.

4. It shall be the duty of the Commission to readjust on the basis of the latest census figures the allocation of seats in the House of the People to the several States, the total number of seats in the Legislative Assembly of each State and the division of each State into territorial constituencies for the purpose of elections to the House of the People and to the State Legislative Assembly.

Duties of  
the Com-  
mission.

5. (1) The Commission shall associate with itself for the purpose of assisting it in its duties in respect of each State, nine persons four of whom shall be members of the House of the People representing that State and five shall be members of the Legislative Assembly of that State.

Associate  
members.

(2) The persons to be so associated from each State shall be nominated, in the case of members of the House of the People, by the Speaker of that House, and in the case of members of Legislative Assembly, by the Speaker of that Assembly, having due regard to the composition of the House or, as the case may be, of the Assembly.

(3) The first nominations to be made under sub-section (2)—

(a) shall be made by the Speakers of the several Legislative Assemblies within one month, and by the Speaker of the House of the People within two months, of the commencement of this Act, and

(b) shall be communicated to the Chief Election Commissioner, and where the nominations are made by the Speaker of a Legislative Assembly, also to the Speaker of the House of the People.

(4) None of the associate members shall have a right to vote or to sign any decision of the Commission.

6. If owing to death or resignation the office of the Chairman or of a member or of an associate member falls vacant, it shall be filled as soon as may be practicable by the Central Government or the Speaker concerned under and in accordance with the provisions of section 3 or, as the case may be, of section 5.

Casual  
vacancies.

Procedure and powers of the Commission.

7. (1) The Commission shall determine its procedure and shall in the performance of its functions have all the powers of a civil court under the Code of Civil Procedure, 1908, while trying a suit, <sup>5 of 1908.</sup> in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of witnesses;
- (b) requiring the production of any document; and
- (c) requisitioning any public record from any court or office.

(2) The Commission shall have power to require any person to furnish any information on such points or matters as in the opinion of the Commission may be useful for, or relevant to, any matter under the consideration of the Commission.

(3) The Commission may authorise any of its members to exercise any of the powers conferred on it by clauses (a) to (e) of sub-section (1) and sub-section (2), and any order made or act done in exercise of any of those powers by the member authorised by the Commission in that behalf shall be deemed to be the order or act, as the case may be, of the Commission.

(4) If there is a difference of opinion among the members, the opinion of the majority shall prevail, and acts and orders of the Commission shall be expressed in terms of the views of the majority.

(5) The Commission as well as any group of associate members shall have power to act notwithstanding the temporary absence of a member or associate member or the existence of a vacancy in the Commission or in that or any other group of associate members; and no act or proceeding of the Commission or of any group of associate members shall be invalid or called in question on the ground merely of such temporary absence or of the existence of such vacancy.

(6) The Commission shall be deemed to be a civil court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898.

*Explanation.*—For the purposes of enforcing the attendance of witnesses the local limits of the jurisdiction of the Commission shall be the limits of the territory of India.

5 of 1898.

Readjustment of number of seats.

8. The Commission shall, on the basis of the latest census figures and having regard to the provisions of articles 81, 170, 330 and 332, by order determine—

- (a) the number of seats in the House of the People to be allocated to each State and the number of seats, if any, to be reserved for the Scheduled Castes and for the Scheduled Tribes of the State; and

(b) the total number of seats to be assigned to the Legislative Assembly of each State and the number of seats, if any, to be reserved for the Scheduled Castes and for the Scheduled Tribes of the State:

Provided that the total number of seats assigned to the Legislative Assembly of any State under clause (b) shall be an integral multiple of the number of seats in the House of the People allocated to that State under clause (a).

**9. (1)** The Commission shall, in the manner herein provided, then distribute the seats in the House of the People allocated to each State and the seats assigned to the Legislative Assembly of each State to single-member territorial constituencies and delimit them on the basis of the latest census figures, having regard to the provisions of the Constitution and to the following provisions, namely:—

Delimitation of  
constituencies.

(a) all constituencies shall, as far as practicable, be geographically compact areas, and in delimiting them regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and public convenience;

(b) every assembly constituency shall be so delimited as to fall wholly within one parliamentary constituency;

(c) constituencies in which seats are reserved for the Scheduled Castes shall be distributed in different parts of the State and located, as far as practicable, in those areas where the proportion of their population to the total is comparatively large; and

(d) constituencies in which seats are reserved for the Scheduled Tribes shall, as far as practicable, be located in areas where the proportion of their population to the total is the largest.

**(2) The Commission shall—**

(a) publish its proposals for the delimitation of constituencies, together with the dissenting proposals, if any, of an associate member who desires publication thereof, in the Gazette of India and Official Gazettes of all the States concerned and also in such other manner as it thinks fit;

(b) specify a date on or after which the proposals will be further considered by it,

(c) consider all objections and suggestions which may have been received by it before the date so specified, and for the purpose of such consideration, hold one or more public sittings at such place or places in each State as it thinks fit; and

(d) thereafter by one or more orders determine—

(i) the delimitation of parliamentary constituencies, and

(ii) the delimitation of assembly constituencies,

of each State.

Publication of  
orders and  
their date  
of opera-  
tion.

**10.** (1) The Commission shall cause each of its orders made under section 8 or section 9 to be published in the Gazette of India and in the Official Gazettes of the States concerned.

(2) Upon publication in the Gazette of India, every such order shall have the force of law and shall not be called in question in any court.

(3) As soon as may be after such publication, every such order shall be laid before the House of the People and the Legislative Assemblies of the States concerned.

(4) Subject to the provisions of sub-section (5), the readjustment of representation of the several territorial constituencies in the House of the People or in the Legislative Assembly of a State and the delimitation of those constituencies provided for in any such order shall apply in relation to every election to the House or to the Assembly, as the case may be, held after the publication in the Gazette of India of that order and shall so apply in supersession of the provisions relating to such representation and delimitation contained in the Representation of the People Act, 1950, and the Delimitation of Parliamentary and Assembly Constituencies Order, 1961.

43 of 1950

(5) Nothing in this section shall affect the representation in the House of the People or in the Legislative Assembly of a State until the dissolution of the House or of the Assembly, as the case may be, existing on the date of publication in the Gazette of India of the final order or orders of the Commission relating to the delimitation of Parliamentary constituencies or, as the case may be, of the Assembly constituencies of that State.

Power to  
maintain  
delimi-  
tation  
orders up-  
to-date.

**11.** (1) The Election Commission may, from time to time, by notification in the Gazette of India and in the Official Gazette of the State concerned,—

(a) correct any printing mistake in any of the orders made by the Delimitation Commission under section 9 or any error arising therein from an inadvertent slip or omission; and

(b) where the boundaries or name of any district or any territorial division mentioned in any of the said orders are or is altered, make such amendments as appear to it to be necessary or expedient for bringing the orders up-to-date.

(2) Every notification under this section shall be laid, as soon as may be after it is issued, before the House of the People and the Legislative Assembly of the State concerned.

**THE EMERGENCY RISKS (GOODS) INSURANCE  
ACT, 1962**  
**No. 62 OF 1962**

[19th December, 1962]

An Act to make certain provisions for the insurance of goods in India against damage by enemy action during the period of emergency.

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

**CHAPTER I**

**PRELIMINARY**

**Short title,** 1. (1) This Act may be called the Emergency Risks (Goods) Insurance Act, 1962.

(2) It extends to the whole of India.

(3) It shall remain in force during the period of operation of the Proclamation of Emergency issued on the 26th October, 1962 and for such further period as the Central Government may, by notification in the Official Gazette, declare to be the period of emergency for the purposes of this Act, but its expiry shall not affect anything done or omitted to be done before such expiry and section 6 of the General Clauses Act, 1897, shall apply upon the expiry of this Act 10 of 1897 as if it had been repealed by a Central Act.

**Definitions**

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

(a) “enemy” means—

(i) any person or country committing external aggression against India;

(ii) any person belonging to a country committing such aggression;

(iii) such other country as may be declared by the Central Government to be assisting the country committing such aggression;

(iv) any person belonging to such other country;

(b) "goods" means any materials, commodities or articles and includes materials, commodities or articles used in or for the construction of any ship up to the time at which the ship after construction is launched;

(c) "Scheme" means the Emergency Risks (Goods) Insurance Scheme made under this Act;

(d) "seller of goods" includes a seller of goods acting as an agent;

(e) "supplier of goods" means a person carrying on a business in the course of which he supplies goods for the purpose of, or in pursuance of, contracts made by him for work, labour and materials;

(f) "emergency risks" means such risks arising from—

(i) action taken by an enemy or action taken in combating an enemy or in repelling an imagined attack by an enemy;

(ii) any explosion or fire which involves explosives or munitions or other dangerous things required for the purposes of defence against any action of an enemy and which happens or is caused by, through, or in connection with, the manufacture, storage or transportation of any such explosives, munitions or other dangerous things;

(iii) measures taken under proper authority to avoid the spreading of, or otherwise to mitigate, the consequences of damage occurring (whether accidentally or not) as a direct result of any such action as is described in sub-clause (i) or of any such explosion or fire as is described in sub-clause (ii);

(iv) precautionary or preparatory measures taken under proper authority with a view to preventing or hindering the carrying out of any attack by an enemy, being measures involving a substantial degree of risk to property;

(v) precautionary or preparatory measures involving the doing of work on land and taken under proper auth-

rity in any way in anticipation of enemy action, being measures involving a substantial degree of risk to property;

(vi) precautionary or preparatory measures taken under proper authority with a view to denying facilities to an enemy, being measures involving a substantial degree of damage to or diminution of value of property.

## CHAPTER II

### INSURABLE GOODS AND INSURANCE SCHEME

Goods  
insurable  
under the  
Act.

3. (1) Subject to the provisions of this section, the following goods shall, in relation to any person carrying on business in India as a seller or supplier of goods of any description, be deemed to be goods insurable under this Act, that is to say, all goods situated in India or, consigned from one place in India to another place in India and in transit, being either—

(i) goods of that description, or

(ii) goods used as material from which goods of that description are produced or as ingredients or component parts of goods of that description:

Provided that no goods shall be deemed to be insurable under this Act—

(a) in relation to any person, being the owner of the goods, who carries on business as a seller of goods, unless they are owned by him with a view to being sold, or to being used as material for the production of goods to be sold, or as ingredients or component parts of goods to be sold;

(b) in relation to any person, being the owner of the goods, who carries on business as a supplier of goods, unless they are owned by him with a view to being supplied for the purpose of, or in pursuance of, a contract made by him for work, labour and materials or to being used as material for the production of goods to be supplied as aforesaid, or as ingredients or component parts of goods to be supplied.

(2) The Central Government may, by notification in the Official Gazette, direct that goods of any description specified in the notification shall, notwithstanding anything contained in this section, be deemed not to be goods insurable under this Act and a copy of such notification shall be laid after it has been made, on the Table of each House of Parliament when such House is in session for a period of thirty days or for the duration of the session in which it is laid, whichever period is less.

(3) Nothing in sub-section (1) shall apply in relation to goods which are owned by Government or in respect of which the Government is the seller or supplier.

4. (1) Save in so far as is otherwise expressly provided in this <sup>Owner-</sup>ship Act, any goods, shall, subject to the provisions of this section, be deemed for the purposes of this Act to be owned,—

(a) if the property in the goods is for the time being vested in a person in relation to whom they are insurable under this Act, by that person;

(b) if the property in the goods is not so vested, by any person in relation to whom the goods are insurable under this Act and who is for the time being entitled, either unconditionally or conditionally, to have the property in the goods vested in him:

Provided that where—

(i) any goods would, under the foregoing provisions of this section, be deemed to be owned by a person in whom the property therein is vested otherwise than in the course of a business carried on by him in India, or who is entitled to have the property therein vested in him otherwise than in the course of such a business, and

(ii) any person carrying on business in India is for the time being entitled to sell the goods as agent,

the goods shall be deemed to be owned by the last mentioned person.

(2) Where in the course of any business a ship is being, or has been, constructed under contract, and the ship or any part thereof or any goods appropriated for the construction thereof—

(a) would, apart from the provisions of this sub-section, have been deemed for the purposes of this Act to be owned at any time by the person from time to time carrying on the business, or

(b) have at any time been accepted, in pursuance of a contract made with him, by the person from time to time carrying on the business,

then, notwithstanding that they would not, apart from the said provisions, be deemed for the said purposes to be owned by the person from time to time carrying on the business, the ship and any part thereof and any goods so appropriated as aforesaid shall, subject to the provisions of sub-section (3), be deemed, in a case to which

clause (a) of this sub-section applies, to continue to be owned by the person from time to time carrying on the business until the acceptance of the ship, in pursuance of the contract in question, by the person for whom it is being or has been, constructed, and in a case to which clause (b) of this sub-section applies, to be owned by the person from time to time carrying on the business at all times between the acceptance referred to in the said clause (b) and the acceptance of the ship as aforesaid by the person for whom it is being, or has been, constructed.

(3) The provisions of sub-section (2) shall apply in relation to the construction under contract in the course of a business of part of a ship, not being part of a ship which is being, or has been, constructed by the person from time to time carrying on the business, as they apply in relation to the construction of a ship—

(a) with the substitution for references to a ship of references to part of a ship;

(b) where the contract for the part of the ship is with the person for whom the ship is being constructed, with the substitution for references to the acceptance of the ship under the contract in question of references to the acceptance of the ship under the contract for the construction thereof;

(c) where the contract for the part of the ship is with any other person, with the substitution for references to the acceptance of the ship under the contract in question of references to the acceptance of the part of the ship under the contract for the construction of the part by the person for whom it is being, or has been, constructed.

(4) Where the person from time to time carrying on a business receives any money, under a policy issued in pursuance of the Scheme, in respect of the loss of or damage to a ship, part of a ship or goods which are deemed to be owned by him by virtue of sub-section (2) or sub-section (3), the money shall be held by him on trust for the person who, apart from the provisions of those sub-sections, would be deemed for the purposes of this Act to be the owner of the ship, part or goods, subject, however, to any lien or charge which would otherwise be enforceable against the ship, part or goods and subject also to the right to retain out of the money the amount of any expenses reasonably incurred by the first mentioned person in making good any part of the loss or damage which he is liable to make good,

5. (1) The Central Government may, by notification in the Official Gazette, put into operation a scheme to be called the Emergency Risks (Goods) Insurance Scheme, whereby the Central Government undertakes in relation to persons carrying on business in India as sellers or suppliers of goods, the liability of insurance of such persons against emergency risks, to the extent provided by or under this Act, in respect of goods insurable under this Act which are from time to time owned by such persons in the course of such business.

(2) The Scheme may also extend—

(a) to the undertaking by the Central Government, in relation to any person carrying on business in India as seller or supplier of goods, of the liability of insuring such a person against emergency risks in respect of goods insurable under this Act which are not owned by him but in which he has an interest arising in the course of that business;

(b) without prejudice to the provisions of clause (a) of this sub-section, to the undertaking by the Central Government, in relation to a person carrying on any business in India, of the liability of insuring such a person against emergency risks in respect of—

(i) any goods situated in India which are in his possession, otherwise than under a hire purchase agreement, for the purposes of that business,

(ii) any goods situated in India which are subject to a mortgage, pledge or charge in his favour held by him in the course of that business,

being, in either case goods which are not owned by him but which are insurable under this Act in relation to the person by whom they are owned;

(c) to the undertaking by the Central Government, in relation to a person carrying on any business in India, of the liability of insuring such person against emergency risks in respect of any goods situated in India, which having been sold in India, for export from India, are in his possession for the purpose of such export and are goods which were prior to such sale insurable under this Act in relation to the person by whom they were then owned;

(d) to the undertaking by the Central Government, in relation to any person carrying on any business in India as a seller or supplier of goods, of the liability of insuring such a person against emergency risks in respect of goods imported into India through any port of India, while such goods are situated at such port or are in transit to a place in India.

(3) The Scheme shall be such as to secure—

(a) that the liability of the Central Government as insurer shall not extend to more than eighty per cent. of the insurable value of the property insurable;

(b) that any liability of the Central Government as insurer under the Scheme is determined by a policy of insurance issued, in the form and in respect of a period not exceeding the period specified in the Scheme, by a person acting on behalf of the Central Government:

Provided that the form of policy may be such as to limit the extent and nature of the indemnity provided by the Central Government and to impose conditions subject to which the indemnity is provided;

(c) that any premium under a policy so issued is payable at a rate not exceeding three per cent. per annum of the sum insured as may be specified in the Scheme; and

(d) that the amount of any one premium payable under a policy so issued is not less than such sum as may be specified in the Scheme.

(4) Different forms of policies may be specified under sub-section (3) in relation to different descriptions of goods.

(5) The Central Government may, by notification in the Official Gazette, add to, amend or vary any Scheme made under this Act.

(6) Every Scheme 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 Scheme or both Houses agree that the Scheme should not be made, 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 the Scheme.

6. The Central Government may, by notification in the Official Gazette, employ or authorise the employment of any person to act as its agent for any of the purposes of this Act and may pay to the person so employed such remuneration as it may think fit.

## CHAPTER III

## COMPULSORY INSURANCE

7. (1) While the Scheme is in operation, no person shall, after such date as may be specified in this behalf by the Central Government by notification in the Official Gazette, carry on any business in India as a seller or supplier of goods, unless, in respect of any goods insurable under this Act which are for the time being owned by him in the course of that business, there is in force a policy of insurance against emergency risks issued in accordance with the Scheme, whereby he is insured in respect of such goods for a sum not less than the value thereof for the time being:

Provided that the Scheme shall not restrict the carrying on of business as aforesaid by any person, if and so long as the value of all goods insurable under this Act which are for the time being owned by him within one and the same Presidency town or district in the course of that business does not exceed thirty thousand rupees.

(2) Whoever contravenes the provisions of this section shall be punishable with fine which may extend to one thousand rupees and with further fine which may extend to five hundred rupees for every day after the first on which the contravention continues.

8. (1) Without prejudice to the provisions of sub-section (2) of section 7, where any person has failed to insure as, or to the full amount, required by this Act, and has thereby evaded the payment by way of premium of any money which he would have had to pay 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 an arrear of land revenue and shall be a first charge on the goods in respect of which the default was made.

(2) A person against whom a determination is made under sub-section (1) may, within the period specified in the Scheme, appeal against such determination to the Central Government whose decision thereon shall be final.

9. (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 any business of insuring persons carrying on business in India as sellers or suppliers of goods against emergency risks in respect of goods insurable under this Act which are from time to time owned by such persons in the course of such business as is last mentioned.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to five thousand rupees and with further fine which may extend to one thousand rupees for every day after the first on which the contravention continues.

**Emergency  
Risks  
(Goods)  
Insurance  
Fund.**

10. (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 Emergency Risks (Goods) 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 15 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.

(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 the Scheme or for the payment by the Central Government of the remuneration and expenses of agents employed for the purposes of the Scheme.

(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 specified in the Scheme 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  
Govern-  
ment to  
obtain in-  
formation.**

11. (1) Any person authorised in this behalf by the Central Government may, for the purposes of ascertaining whether or not the requirements of this Act have been complied with,—

(a) require any person carrying on in India the business of fire insurance or of a seller or supplier of goods to submit to him

such accounts, books or other documents or to furnish to him such information as he may reasonably think necessary, or

(b) at any reasonable time, enter any premises occupied by any person carrying on in India the business of a seller or supplier of goods for the purposes of that business and may inspect the premises and require any person found therein who is for the time being in charge thereof, or in control of the business carried on therein, to produce to him and allow him to examine such accounts, books or other documents as may relate to the business carried on in the premises and to furnish to him such other information as he may reasonably require for the purpose of ascertaining whether or not, and, if so, to what extent, the person carrying on the business is insured under the Scheme in respect of goods owned by him in the course of that business, and of ascertaining the value of any goods insurable under the Scheme which are, or were at any relevant time, owned by him in the course of that business and the maximum amount which would be recoverable in respect of any such goods under a policy issued under this Act.

(2) Whoever wilfully obstructs any person in the exercise of his powers under this section or fails without any reasonable excuse to comply with a demand 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 five hundred 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.

(4) Where in any proceedings in respect of a contravention of section 7 in relation to any business, it is proved, in relation to that business—

(a) that a demand for the production of a policy of insurance issued in accordance with the Scheme insuring the person carrying on the business was duly made under this section and was not complied with, and

(b) that the person making the demand was not satisfied that there was such a policy in existence,

it shall be presumed, except in so far as the contrary is proved, that the said section 7 was being contravened in relation to that business at the time when the demand was made and continued to be contravened in relation to that business at all times thereafter.

Punish-  
ment for  
giving  
false in-  
formation.

**12.** If any person, for the purpose of obtaining for himself or any other person any payment in respect of any damage due to the action of the enemy or under a policy issued in pursuance of the Scheme,—

(a) furnishes any information which he knows to be false in a material particular, or reckless furnishes any information which is false in a material particular, or

(b) with intent to deceive, produces, furnishes, sends or otherwise makes use of any book, account or other document which is false in a material particular, or

(c) with intent to deceive, withholds any material information,

he shall be punishable with fine which may extend to five thousand rupees, or with imprisonment for a term not exceeding three months, or with both.

Refund of  
premiums  
in certain  
cases.

**13.** (1) Where goods of any description have been insured by a seller or supplier of goods for any period, and before that period has elapsed the goods of that description have ceased, by virtue of a notification under sub-section (2) of section 3 to be goods insurable under this Act, the person who has insured such goods shall be entitled to a proportionate refund of the premium.

(2) No suit shall be maintainable in any civil court against the Central Government or any person acting as the agent of the Central Government under section 6 for the refund of money paid or purporting to have been paid as premium in respect of any policy issued or purporting to have been issued under this Act.

Limitation  
on prose-  
cution.

**14.** 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.

Composi-  
tion of  
offences.

**15.** Any offence punishable under sub-section (2) of section 7, or 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.

Bar of  
legal pro-  
ceedings.

**16.** No suit, prosecution, or other legal proceedings shall lie against the Central Government or against any person for anything which is in good faith done or intended to be done under this Act.

17. If any difficulty arises in giving effect to the provisions of this Act, and in particular, if any doubt arises as to whether a person is insurable in respect of any goods under this Act, 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 order of the Central Government, in such cases, shall be final.

THE EMERGENCY RISKS (FACTORIES) INSURANCE  
ACT, 1962

No. 63 OF 1962

[19th December, 1962]

An Act to make provisions for the insurance of certain property in India against damage by enemy action during the period of emergency.

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

CHAPTER I

PRELIMINARY

**Short title, extent and duration.** 1. (1) This Act may be called the Emergency Risks (Factories) Insurance Act, 1962.

(2) It extends to the whole of India.

(3) It shall remain in force during the period of operation of the Proclamation of Emergency issued on the 26th October, 1962, and for such further period as the Central Government may, by notification in the Official Gazette, declare to be the period of emergency for the purposes of this Act, but its expiry shall not affect anything done or omitted to be done before such expiry and section 6 of the General Clauses Act, 1897, shall apply upon the expiry of this Act 10 of 1897 as if it had been repealed by a Central Act.

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

(a) “buildings” includes foundations, plinths, floors, staircases, tanks, engine and boiler beds, chimneys, flues and boundary walls;

(b) “enemy” means—

(i) any person or country committing external aggression against India;

63 of 1948.

(ii) any person belonging to a country committing such aggression;

(iii) such other country as may be declared by the Central Government to be assisting the country committing such aggression;

(iv) any person belonging to such other country;

(c) "factory" means a factory as defined in clause (m) of section 2 of the Factories Act, 1948;

(d) "factory buildings" includes all buildings comprised in the factory, and such other buildings (including residential buildings for staff and workmen, hospitals and welfare centres) within a radius of two miles from the main factory building as are in the same ownership or occupation as the factory and are used for the purposes of the factory;

(e) "the Fund" means the Emergency Risks (Factories) Insurance Fund constituted under section 7;

(f) "insurable value" of property means the value of the property as ascertained for the purposes of insurance under this Act;

63 of 1948.

(g) "occupier" of a factory has the meaning assigned to it in clause (n) of section 2 of the Factories Act, 1948;

62 of 1962.

(h) "owner" of a factory includes, when parts of the property insurable under this Act in relation to the factory are owned by different persons, each such person in respect of the part owned by him;

(i) "property insurable under this Act" means, in relation to any factory, the factory buildings and, except where they are for the time being goods insurable under the Emergency Risks (Goods) Insurance Act, 1962, all plant and machinery in the factory, all materials in the factory for use in the production or transmission of motive power, or in the maintenance of plant and machinery or in the construction or reconstruction or maintenance of factory buildings, and such other plant, machinery or materials as may be specified in the Scheme;

(j) "quarter" means a period of three months commencing on the first day of January, April, July or October;

(k) "the Scheme" means the Emergency Risks (Factories) Insurance Scheme made under this Act;

(l) "emergency risks" means such risks arising from—

(i) action taken by an enemy or action taken in combating an enemy or in repelling an imagined attack by an enemy;

(ii) any explosion or fire which involves any explosives or munitions or other dangerous things required for the purposes of defence against any action of an enemy and which happens or is caused by, through, or in connection with the manufacture, storage or transportation of any such explosives, munitions or other dangerous things;

(iii) measures taken under proper authority to avoid the spreading of, or otherwise to mitigate, the consequences of damage occurring (whether accidentally or not) as the direct result of any such action as is described in sub-clause (i) or of any such explosion or fire as is described in sub-clause (ii);

(iv) precautionary or preparatory measures taken under proper authority with a view to preventing or hindering the carrying out of any attack by an enemy, being measures involving risk to property;

(v) precautionary or preparatory measures involving the doing of work on land and taken under proper authority in any way in anticipation of enemy action, being measures involving risk to property;

(vi) precautionary or preparatory measures taken under proper authority with a view to denying facilities to an enemy, being measures involving damage to or diminution of the value of property.

## CHAPTER II

### EMERGENCY RISKS (FACTORIES) INSURANCE SCHEME

**Emergency  
Risks(Fac-  
tories)  
Insurance  
Scheme.**

3. (1) The Central Government may, by notification in the Official Gazette, put into operation a scheme to be called the Emergency Risks (Factories) Insurance Scheme, whereby the Central Government undertakes in relation to factories the liability of insuring property insurable under this Act against emergency risks, to the extent provided by or under this Act.

(2) The Scheme may extend to the undertaking by the Central Government in relation to any person in India of the liability of insuring such person against emergency risks in respect of any property insurable under this Act which is not owned by him but in which he has an interest, up to the extent of such interest.

(3) The Scheme shall be such as to secure—

(a) that the liability of the Central Government as insurer shall not extend to more than eighty per cent. of the insurable value of the property insurable;

(b) that any liability of the Central Government as insurer under the Scheme is determined by a policy of insurance issued, in the form and in respect of a period not exceeding the period specified in the Scheme, by a person acting on behalf of the Central Government:

Provided that the form of policy may be such as to limit the extent and nature of the indemnity provided by the Central Government and to impose conditions subject to which the indemnity is provided;

(c) that any premium under a policy so issued is payable at a rate not exceeding three per cent. per annum of the sum insured as may be specified in the Scheme;

(d) that the amount of any one premium payable under a policy so issued is not less than such sum as may be specified in the Scheme.

(4) The Scheme may provide—

(a) for undertaking in relation to works in course of construction which, when completed, will become factories, and such plant and machinery appertaining to such works as may be specified in the Scheme, the same liabilities as are undertaken by the Scheme in relation to factories;

(b) that the payments due under a policy of insurance issued under the Scheme, may at the option of the Central Government, take either of the following forms, namely:—

(i) payment, within the limits of the liability assumed by the Central Government and in such manner and by such instalments as the Central Government may think fit, of the cost necessary to restore the property as far as practicable to the condition in which it existed before the occurrence of the damage, or

(ii) compensation, within the aforesaid limits, for the loss in value, ascertained on the basis of values and prices ruling at the time at which the policy of insurance was taken out, or at which the loss occurred, whichever is less, suffered by the property as a result of the damage, after due allowance has been made for depreciation during the period of insurance cover;

(c) that payments due under a policy of insurance under the Scheme may be postponed to any time before the expiry of one year from the date on which this Act ceases to be in force, or, subject to payment of interest at the rate of two per cent. per annum from the expiry of the said year, to any later date;

(d) for making it an express or implied condition of any policy of insurance issued under the Scheme—

(i) that the owner or occupier of a factory shall comply with all regulations or instructions made or issued under the authority of Government for safeguarding the property against damage from emergency risks, or

(ii) that, where the Central Government exercises its option to pay the cost necessary to restore the property to its original condition the owner of the factory shall, if so required by the Central Government, reconstruct the factory or remove the factory to and reconstruct it in another locality.

(5) Different forms of policies may be specified in the Scheme under sub-section (3) in relation to different classes of factories.

(6) The Central Government may, by notification in the Official Gazette, add to, amend or vary any Scheme made under this Act.

(7) Every Scheme 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 Scheme or both Houses agree that the Scheme should not be made, 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 the Scheme.

4. The Central Government may, by notification in the Official Gazette, employ or authorise the employment of any person to act as its agent for any of the purposes of this Act, and may pay to the person so employed such remuneration as it may think fit.

5. (1) While the Scheme is in operation, every owner of a factory, except a factory belonging to Government or a factory exempted under section 15 from the provisions of this Act, shall, by such date as may be specified in this behalf by the Central Government by notification in the Official Gazette, or, in respect of premises becoming a factory or property becoming property insurable under this Act after that date or in a case to which sub-section (2) refers, before the commencement of the quarter next following that in which the premises become a factory or the property becomes insurable under this Act, or as the case may be, in which the reconstruction of the factory is completed, take out a policy of insurance against emergency risks issued in accordance with the Scheme, whereby he is insured in respect of all property insurable under this Act, which appertains to the factory for a sum not less than the insurable value of such property:

Provided that where the owner of the factory is not himself the occupier of the factory, the occupier of the factory shall, unless the owner has already taken out a policy of insurance as required by this sub-section, himself take out the policy, and in such a case the occupier shall be deemed to act as the agent of the owner and shall be entitled to receive from the owner all sums paid as premiums on the policy.

(2) The obligation imposed by sub-section (1) includes, when the owner of the factory is required by the Central Government to reconstruct a factory which has suffered damage, an obligation to take out an additional policy of insurance as required by the sub-section in respect of the reconstructed factory.

(3) When a factory in respect of which a policy of insurance against emergency risks has been taken out as required by this section is transferred from one owner to another or there is a change of occupier of the factory, the policy may be transferred to the new owner or occupier and such new owner or occupier shall succeed to all rights and liabilities under and in relation to the policy as if the policy had been in the first instance taken out by him.

(4) Whoever contravenes the provisions of sub-section (1) or the proviso thereto, or, having taken out a policy of insurance as required by that sub-section, fails to pay any instalment of premium thereon which is subsequently due, shall be punishable with fine which may extend to two thousand rupees and with a further fine which may extend to one thousand rupees for every day after the first on which the contravention or failure continues, and such punishment shall be without prejudice to any other penalty or liability incurred in consequence of such contravention or failure.

Duty of  
owner of  
factory to  
insure  
against  
Emergency  
risks.

(5) Where any offence under sub-section (4) 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 that sub-section.

5 of 1898

Restrictions on carrying on certain insurance business.

Emergency Risks (Factories) Insurance Fund.

6. (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 factories in India against emergency risks in respect of property insurable under this Act.

(2) 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.

7. (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 Emergency Risks (Factories) 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 13 or by way of expenses or compensation awarded by a Court, under section 545 of the Code of Criminal Procedure, 1898, 5 of 1898 out of any fine imposed in any prosecution under this Act.

(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 the Scheme, or for payments by the Central Government under section 10, or for the payment by the Central Government of the remuneration and expenses of agents employed for the purposes of the Scheme.

(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 specified in the Scheme 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 III MISCELLANEOUS

8. (1) Any person authorised in this behalf by the Central Government may, for the purpose of ascertaining whether or not the owner or occupier of any property required to be insured under this Act has taken out a policy of insurance as required by this Act in respect of such property, or for the purpose of investigating the insurable value of any property insured, or required to be insured, or proposed for insurance under this Act, or for the purpose of estimating the damage suffered by any property insured under this Act,—

Power of  
Central  
Govern-  
ment to  
obtain in-  
formation.

(a) require the owner or occupier of the property, or any person carrying on in India the business of fire insurance in respect of the property, to submit to him such accounts, books or other documents or to furnish to him such information as he may reasonably think necessary, or

(b) at any reasonable time, enter any premises comprising or containing the property, inspect such premises or property, and require any person found on such premises who is for the time being in charge thereof, or in control thereof, or whom he believes to be in possession of information relevant to his investigation, to produce to him and allow him to examine such accounts, books or other documents as he may think necessary, or to furnish to him such other information 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 demand 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.

(4) Where in any proceedings in respect of a contravention of section 5 in relation to any factory, it is proved, in relation to that factory—

(a) that a demand for the production of a policy of insurance issued in accordance with the Scheme insuring the owner or occupier of the factory was duly made under this section and was not complied with, and

(b) that the person making the demand was not satisfied that there was such a policy in existence,

it shall be presumed, except in so far as the contrary is proved, that the said section 5 was being contravened in relation to that factory at the time when the demand was made and continued to be contravened in relation to that factory at all times thereafter.

Punish-  
ment for  
giving  
false in-  
formation.

9. If any person, for the purpose of obtaining for himself or any other person any payment in respect of any damage due to the action of the enemy or under a policy issued in pursuance of the Scheme—

(a) furnishes any information which he knows to be false in a material particular, or recklessly furnishes any information which is false in a material particular, or

(b) with intent to deceive, produces, furnishes, sends or otherwise makes use of any book, account or other document which is false in a material particular, or

(c) with intent to deceive, withholds any material information,

he shall be punishable with fine which may extend to five thousand rupees or with imprisonment for a term not exceeding three months or with both.

Payments  
towards  
cost of re-  
moval and  
reconstruc-  
tion of  
factory.

10. Where the Central Government requires the owner of a factory to remove the factory and to reconstruct it in another locality, the Central Government shall make to such owner out of the Fund such payments, in addition to any sum payable under the policy of insurance, as it considers sufficient to defray the cost of the removal and, if necessary, the replacement of any part of the property in respect of which no compensation is payable.

Recovery  
of pre-  
miums  
unpaid.

11. (1) Without prejudice to the provisions of sub-section (4) of section 5, where any person has failed to insure as, or to the full amount, required by this Act, and has thereby evaded the payment by way of premium of any money which he would have had to pay 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 instalment of premium due 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 and shall be a first charge on the property in respect of which the default was made.

(3) A person against whom a determination is made under sub-section (1) may, within the period specified in the Scheme, appeal against such determination to the Central Government whose decision thereon shall be final.

12. 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. Limitation on prosecutions.

13. Any offence punishable under sub-section (4) of section 5 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. Composition of offences.

14. (1) 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. Bar of legal proceedings.

(2) No suit shall be maintainable in any civil court against the Central Government, or a person acting as its agent under section 4, for the refund of any money paid or purporting to have been paid as premium on a policy of insurance taken out or purporting to have been taken out under this Act.

15. (1) The Central Government may, by notification in the Official Gazette, exempt any class or description of factories from the provisions of this Act requiring such factories to be insured or to continue to be insured under this Act; but such exemption shall not prejudice the infliction of any penalty or the accrual of any liability incurred before the date on which the exemption takes effect. Power to exempt factories.

(2) In granting any exemption under this section the Central Government may direct that the exemption shall take effect or be deemed to have taken effect on a specified date after or before the date of the notification.

16. Where any factory has been insured by any owner or occupier thereof for any period, and before that period has elapsed the factory or the factory of that description has ceased, by virtue of a notification under sub-section (1) of section 15 to be insurable under this Act, the person who has insured the factory shall be entitled to a proportionate refund of the premium. Refund of premiums in certain cases.

Power of  
Central  
Govern-  
ment to  
extend the  
Act and  
Scheme  
to under-  
takings.

17. (1) The Central Government may, by notification in the Official Gazette, declare that the provisions of this Act and of the Scheme made thereunder shall apply to the insuring against emergency risks of—

- (a) the plant and machinery, whether above or below ground, appertaining to mines as defined in the Mines Act, 1952, buildings appertaining to mines and within a radius of two miles from the mine excavation and in relation to such plant, machinery and buildings, such materials above ground as would, if the mine were a factory, be included in the term "property insurable under this Act";
- (b) derricks, drills and rigs and group gathering stations and storage tank of an oil mine, plant and machinery required for pumping, refining or processing any mineral oil, and pipe lines;
- (c) the whole or a specified part of the distribution systems of gas supply undertakings generally, or of specified gas supply undertakings;
- (d) the whole or a specified part of the distribution and transmission systems, sub-stations, switch houses and transformer houses of electric supply undertakings generally, or of specified electric supply undertakings;
- (e) the whole or a specified part of the sluice houses, valve houses, water-pipe lines, penstocks and any other plant and machinery pertaining to the intake of hydraulic power of hydro-electric supply undertakings generally, or of specified hydro-electric supply undertakings;
- (f) standing tea crops in any garden belonging to the owner of any factory;

as they apply to property insurable under this Act which appertains to a factory.

(2) In interpreting this Act as applied by notification under clause (a) of sub-section (1) to mines, references to the owner of a factory shall be read as references to the owner or agent of a mine as defined in the Mines Act, 1952, and references to the occupier of a factory shall be read as references to the agent of a mine as defined in that Act; and in interpreting this Act as applied by notification under any of the clauses of sub-section (1), "property insurable under this Act" shall be interpreted as meaning all property to which the Scheme is by the said notification declared to apply.

18. (1) The Central Government may, by notification in the Official Gazette, direct that the provisions of this Act and of the Scheme made thereunder shall extend and shall so far as they are applicable, apply in the same manner as they apply to the insurance of property insurable under this Act in relation to a factory, to the insurance against emergency risks of inland vessels (including the hull, machinery and fittings thereof, fuel carried therein, and stores carried therein for the use of the crew), being the property of any trading corporation or of any body of Port Trustees or Commissioners or of any other person specified in this behalf by the Central Government, where such vessels, fuel and stores are not for the time being plant or materials insurable in relation to a factory under this Act and the Scheme thereunder, or goods insurable under the Emergency Risks (Goods) Insurance Scheme made under the Emergency Risks (Goods) Insurance Act, 1962.

(2) In this section, unless the context otherwise requires,—

(a) "inland vessel" means a vessel not ordinarily plying outside the limits of the territorial waters surrounding India;

(b) "vessel" means a vessel the value of which including the hull, machinery and fittings but excluding cargo, fuel and stores carried for the use of the crew, as ascertained for the purpose of insurance under the Scheme, exceeds two thousand and five hundred rupees, propelled wholly or in part by steam, electrical or mechanical power, or adapted for towing by a vessel so propelled, and includes any such vessel while used as a place of habitation or for storage of goods but does not include a vessel of the type commonly called country craft.

(3) In the application of this Act and of the Scheme made thereunder to the insurance of inland vessels—

(a) the obligation imposed by sub-section (1) of section 5 on the owner of a factory shall, in the case of a trading corporation or body of Port Trustees or Commissioners or any other person whose inland vessels become insurable under this Act and the Scheme thereunder, be an obligation imposed on the trading corporation, body of Port Trustees or Commissioners or such other person to take out by such date as may be specified in this behalf by the Central Government by a notification in the Official Gazette, a policy of insurance against emergency risks issued in accordance with the Scheme whereby it is insured in respect of all inland vessels (including fuel carried by them and stores carried by them for the use of the crew) owned by it or him, as the case may be, for a sum not less than the insurable value of such vessels, fuel and stores; and this obligation shall in

the case of a trading corporation incorporated outside India rest upon the manager of the principal place of business in India of the corporation;

(b) the prohibition contained in sub-section (1) of section 6 of this Act shall be deemed to include a prohibition of carrying on business of insuring inland vessels in India against emergency risks for insurance against which provision is made under the Scheme;

(c) nothing in this Act shall prevent the fixing of a rate of premium under or the prescription for the time being of any period or periods for policies issued in connection with the insurance of inland vessels different from any rate fixed under or any periods prescribed for policies issued in connection with the insurance of property appertaining to a factory:

Provided that the rate of premium so fixed shall not exceed three per cent. per annum of the sum insured.

**Power to remove difficulties.**

19. If any difficulty arises in giving effect to the provisions of this Act, and in particular, if any doubt arises as to whether a person is insurable in respect of any property insurable under this Act, the Central Government may, by order, make such directions, 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.

**Notifications under section 15, 17 or 18 to be laid before Parliament.**

20. A copy of every notification made by the Central Government under section 15, 17 or 18 shall be laid after it has been made, on the Table of each House of Parliament when such House is in session for a period of thirty days or for the duration of the session in which it is laid, whichever period is less.

THE WORKMEN'S COMPENSATION (AMENDMENT)  
ACT, 1962

NO. 64 OF 1962

[19th December, 1962]

An Act further to amend the Workmen's Compensation Act, 1923.

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

1. (1) This Act may be called the Workmen's Compensation (Amendment) Act, 1962. Short title,  
and com-  
mence-  
ment.

(2) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint.

2. In section 2 of the Workmen's Compensation Act, 1923 (hereinafter referred to as the principal Act), in sub-section (1),— Amend-  
ment of  
section 2.

(i) in clause (g), for the words and figure "in Schedule I", the words and figures "in Part II of Schedule I" shall be substituted;

(ii) in clause (l), for the proviso, the following proviso shall be substituted, namely:—

"Provided that permanent total disablement shall be deemed to result from every injury specified in Part I of Schedule I or from any combination of injuries specified in Part II thereof where the aggregate percentage of the loss of earning capacity, as specified in the said Part II against those injuries, amounts to one hundred per cent. or more;";

(iii) in sub-clause (ii) of clause (n), for the words "four hundred rupees", the words "five hundred rupees" shall be substituted.

<sup>1</sup>1st February, 1963; vide Notification No. S.O. 320, dated 31-1-1963, Gazette of India, Extraordinary, Pt. II, Sec. 3(ii), p. 75.

Amend-  
ment of  
section 3.

**3. In section 3 of the principal Act,—**

(i) in sub-section (2), the following provisos shall be inserted at the end, namely:—

“Provided that if it is proved,—

(a) that a workman whilst in the service of one or more employers in any employment specified in Part C of Schedule III has contracted a disease specified therein as an occupational disease peculiar to that employment during a continuous period which is less than the period specified under this sub-section for that employment, and

(b) that the disease has arisen out of and in the course of the employment;

the contracting of such disease shall be deemed to be an injury by accident within the meaning of this section:

Provided further that if it is proved that a workman who having served under any employer in any employment specified in Part B of Schedule III or who having served under one or more employers in any employment specified in Part C of that Schedule, for a continuous period specified under this sub-section for that employment and he has after the cessation of such service contracted any disease specified in the said Part B or the said Part C, as the case may be, as an occupational disease peculiar to the employment and that such disease arose out of the employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section.”;

(ii) for sub-section (2A), the following sub-section shall be substituted, namely:—

“(2A) If a workman employed in any employment specified in Part C of Schedule III contracts any occupational disease peculiar to that employment, the contracting whereof is deemed to be an injury by accident within the meaning of this section, and such employment was under more than one employer, all such employers shall be liable for the payment of the compensation in such proportion as the Commissioner may, in the circumstances, deem just.”.

Amend-  
ment of  
section 4.

**4. In section 4 of the principal Act, in sub-clause (i) of clause (c) of sub-section (1), for the word and figure “Schedule I”, the words and figures “Part II of Schedule I” shall be substituted.**

5. In section 10 of the principal Act, in sub-section (1), after the first proviso, the following provisos shall be inserted, namely:—

Amend-  
ment of  
section 10.

“Provided further that in case of partial disablement due to the contracting of any such disease and which does not force the workman to absent himself from work, the period of two years shall be counted from the day the workman gives notice of the disablement to his employer:

Provided further that if a workman who, having been employed in an employment for a continuous period, specified under sub-section (2) of section 3 in respect of that employment, ceases to be so employed and develops symptoms of an occupational disease peculiar to that employment within two years of the cessation of employment, the accident shall be deemed to have occurred on the day on which the symptoms were first detected.”.

6. In sub-section (2) of section 18A of the principal Act, for the words “within six months of the date on which the offence is alleged to have been committed”, the words “within six months of the date on which the alleged commission of the offence came to the knowledge of the Commissioner” shall be substituted.

7. In the principal Act, in sections 20 and 21, the word “local”, wherever it occurs, shall be omitted.

Amend-  
ment of  
sections 20  
and 21.

8. After section 35 of the principal Act, the following section shall be inserted, namely:—

Insertion  
of new  
section 36.

“36. Every rule made under this Act 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.”.

Rules  
made by  
Central  
Govern-  
ment to  
be laid  
before Par-  
liament.

Amend-  
ment of  
Schedule I

**9. In Schedule I of the principal Act,—**

(i) for the heading "LIST OF INJURIES DEEMED TO RESULT IN PERMANENT PARTIAL DISABILMENT" the following heading shall be substituted, namely:—

**"PART I**

**LIST OF INJURIES DEEMED TO RESULT IN PERMANENT TOTAL  
DISABILMENT";**

(ii) after serial No. 6 and the entries relating thereto, the following heading shall be inserted, namely:—

**"PART II**

**LIST OF INJURIES DEEMED TO RESULT IN PERMANENT PARTIAL  
DISABILMENT";**

(iii) serial Nos. 7 to 54 shall respectively be re-numbered as serial Nos. 1 to 48.

Amend-  
ment of  
Schedule  
II.

**10. In Schedule II of the principal Act,—**

(i) in clause (ii), after the words "with any such manufacturing process or with the article made", the words "whether or not employment in any such work is within such premises or precincts" shall be inserted;

(ii) in clause (iii),

(a) the word "or" occurring at the end shall be omitted;

(b) the following *Explanation* shall be inserted, namely:—

*"Explanation.—For the purposes of this clause, persons employed outside such premises or precincts but in any work incidental to, or connected with, the work relating to making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale any article or part of an article shall be deemed to be employed within such premises or precincts; or";*

(iii) in clause (xviii), after the word "growing", the word "cardamom" shall be inserted.

## 11. In Schedule III of the principal Act,—

Amend-  
ment of  
Schedule  
III.

(a) in Part A, after the existing entries, the following entry shall be inserted, namely:—

"Poisoning by Organic Phosphorus insecticides.

Any process involving the use or handling or exposure to the fumes, dust or vapour containing any of the organic phosphorus insecticides.”;

## (b) in Part B,—

(i) against the entry “Poisoning by lead, its alloys or compounds or its sequelae excluding poisoning by lead tetra-ethyl” in the first column, for the words “use of lead” in the entry in the second column, the words “use of lead ore or lead” shall be substituted;

(ii) against the entry “poisoning by phosphorus or its compounds, or its sequelae” in the first column, for the entry in the second column, the following entry shall be substituted, namely:—

“Any process involving the liberation of phosphorus or use or handling of phosphorus or its preparations or compounds”;

(iii) against the entry “Poisoning by benzene, or its homologues their amido and nitroderivatives or its sequelae” in the first column, for the entry in the second column, the following entry shall be substituted, namely:—

“Any process involving the manufacture, liberation, or use of benzene, benzene homologues and their amido and nitroderivatives”;

(iv) against the entry “Chrome ulceration or its sequelae” in the first column, the following words shall be inserted at the end in the entry in the second column, namely:—

“or the manufacture of bichromate”;

(v) against the entry “Poisoning by halogenated hydrocarbons of the aliphatic series and their halogen derivatives” in the first column, for the word “distillation” in the entry in the second column, the word “liberation” shall be substituted;

(vi) after the existing entries, the following entry shall be inserted, namely:—

“Poisoning by manganese or a compound of manganese, or its sequelae. Any process involving the use of, or handling of, or exposure to the fumes, dust or vapour of, manganese or a compound of manganese, or a substance containing manganese”.

**Substitution of Schedule IV.** 12. For Schedule IV of the principal Act, the following Schedule shall be substituted, namely:—

#### “SCHEDULE IV

[See section 4]

#### COMPENSATION PAYABLE IN CERTAIN CASES

Monthly wages of the workman injured	Amount of compensation for—		Half-monthly payment as compensation for temporary disablement
	Death	Permanent total disablement	
I	2	3	4
More than Rs. 6	But not more than Rs. 10	Rs. 1,000	Rs. 1,400
10	13	1,100	1,540
13	18	1,200	1,680
18	21	1,260	1,764
21	24	1,440	2,016
24	27	1,620	2,268
27	30	1,800	2,520
30	35	2,100	2,940
35	40	2,400	3,360
40	45	2,700	3,780
45	50	3,000	4,200
50	60	3,600	5,040
60	70	4,200	5,880
70	80	4,800	6,720
80	100	6,000	8,400

Monthly wages of the workman injured  I	Amount of compensation for—			Half-monthly payment as compensation for temporary disablement  4	
	Death  2	Permanent total disablement  3			
More than Rs.	But not more than Rs.	Rs.	Rs.	Rs. nP.	
100	150	7,000	9,800	37 50	
150	200	7,000	9,800	52 50	
200	300	8,000	11,200	60 00	
300	400	9,000	12,600	75 00	
400	..	10,000	14,000	87 50 "	

THE WORKING JOURNALISTS (AMENDMENT)  
ACT, 1962

NO. 65 OF 1962

[19th December, 1962]

An Act further to amend the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 and the Working Journalists (Fixation of Rates of Wages) Act, 1958.

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

**Short title and commencement.** 1. (1) This Act may be called the Working Journalists (Amendment) Act, 1962.

(2) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint.

**Amendment of section 2.** 2. In section 2 of the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 (hereinafter referred to as 45 of 1955, the principal Act), in clause (a), for the word and figure "section 8", the word and figure "section 9" shall be substituted.

**Substitution of new sections for section 5.** 3. For section 5 of the principal Act, the following sections shall be substituted, namely:—

**Payment of gratuity.** 5. (1) Where—

(a) any working journalist has been in continuous service, whether before or after the commencement of this Act, for not less than three years in any newspaper establishment, and—

(i) his services are terminated by the employer in relation to that newspaper establishment for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action; or

<sup>1</sup>15th January, 1963; vide Notification No. S.O. 91, dated 2-1-1963, Gazette of India, Pt. II, Sec. 3(ii), p. 159.

(ii) he retires from service on reaching the age of superannuation; or

(b) any working journalist has been in continuous service, whether before or after the commencement of this Act, for not less than ten years in any newspaper establishment, and he voluntarily resigns on or after the 1st day of July, 1961, from service in that newspaper establishment on any ground whatsoever other than on the ground of conscience; or

(c) any working journalist has been in continuous service, whether before or after the commencement of this Act, for not less than three years in any newspaper establishment, and he voluntarily resigns on or after the 1st day of July, 1961, from service in that establishment on the ground of conscience; or

(d) any working journalist dies while he is in service in any newspaper establishment,

the working journalist or, in the case of his death, his nominee or nominees or, if there is no nomination in force at the time of the death of the working journalist, his family, as the case may be, shall, without prejudice to any benefits or rights accruing under the Industrial Disputes Act, 1947, be paid, on such termination, retirement, resignation or death, by the employer in relation to that establishment gratuity which shall be equivalent to fifteen days' average pay for every completed year of service or any part thereof in excess of six months:

Provided that in the case of a working journalist referred to in clause (b), the total amount of gratuity that shall be payable to him shall not exceed twelve and half months' average pay:

Provided further that where a working journalist is employed in any newspaper establishment wherein not more than six working journalists were employed on any day of the twelve months immediately preceding the commencement of this Act, the gratuity payable to a working journalist employed in any such newspaper establishment for any period of service before such commencement shall not be equivalent to fifteen days' average pay for every completed year of service or any part thereof in excess of six months but shall be equivalent to—

(a) three days' average pay for every completed year of service or any part thereof in excess of six months, if the period of such past service does not exceed five years;

(b) five days' average pay for every completed year of service or any part thereof in excess of six months, if the period of such past service exceeds five years but does not exceed ten years; and

(c) seven days' average pay for every completed year of service or any part thereof in excess of six months, if the period of such past service exceeds ten years.

*Explanation.*—For the purposes of this sub-section and subsection (1) of section 17, "family" means—

(i) in the case of a male working journalist, his widow, children, whether married or unmarried, and his dependent parents and the widow and children of his deceased son:

Provided that a widow shall not be deemed to be a member of the family of the working journalist if at the time of his death she was not legally entitled to be maintained by him;

(ii) in the case of a female working journalist, her husband, children, whether married or unmarried, and the dependent parents of the working journalist or of her husband, and the widow and children of her deceased son:

Provided that if the working journalist has expressed her desire to exclude her husband from the family, the husband and his dependent parents shall not be deemed to be a part of the working journalist's family,

and in either of the above two cases, if the child of a working journalist or of a deceased son of a working journalist has been adopted by another person and if under the personal law of the adopter, adoption is legally recognised, such a child shall not be considered as a member of the family of the working journalist.

(2) Any dispute whether a working journalist has voluntarily resigned from service in any newspaper establishment on the ground of conscience shall be deemed to be an industrial dispute within the meaning of the Industrial Disputes Act, 1947 or any corresponding law relating to investigation and settlement of industrial disputes in force in any State.

(3) Where a nominee is a minor and the gratuity under sub-section (1) has become payable during his minority, it shall be paid to a person appointed under sub-section (3) of section 5A:

Provided that where there is no such person, payment shall be made to any guardian of the property of the minor appointed by a competent court or where no such guardian has been appointed, to either parent of the minor, or where neither parent is alive, to any other guardian of the minor:

Provided further that where the gratuity is payable to two or more nominees, and either or any of them dies, the gratuity shall be paid to the surviving nominee or nominees.

5A. (1) Notwithstanding anything contained in any law for Nomination by the time being in force, or in any disposition, testamentary or otherwise in respect of any gratuity payable to a working journalist, where a nomination made in the prescribed manner purports to confer on any person the right to receive payment of the gratuity for the time being due to the working journalist, the nominee shall, on the death of the working journalist, become entitled to the gratuity and to be paid the sum due in respect thereof to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner.

(2) Any nomination referred to in sub-section (1) shall become void if the nominee predeceases, or where there are two or more nominees, all the nominees predecease, the working journalist making the nomination.

(3) Where the nominee is a minor, it shall be lawful for the working journalist making the nomination to appoint any person in the prescribed manner to receive the gratuity in the event of his death during the minority of the nominee.

4. For sections 8, 9, 10, 11, 12 and 13 of the principal Act, the following sections shall be substituted, namely:—

"8. (1) The Central Government may, in the manner herein-after provided,—

(a) fix rates of wages in respect of working journalists;

(b) revise, from time to time, at such intervals as it may think fit, the rates of wages fixed under this section or specified in the order made under section 6 of the Working Journalists (Fixation of Rates of Wages) Act, 1958.

Substitution of new sections for sections 8, 9, 10, 11, 12 and 13.  
Fixation or revision of rates of wages.

(2) The rates of wages may be fixed or revised by the Central Government in respect of working journalists for time work and for piece work.

Procedure  
for fixing  
and revis-  
ing rates  
of wages.

9. For the purpose of fixing or revising rates of wages in respect of working journalists under this Act, the Central Government shall, as and when necessary, constitute a Wage Board which shall consist of—

(a) two persons representing employers in relation to newspaper establishments;

(b) two persons representing working journalists;

(c) three independent persons, one of whom shall be a person who is, or has been, a Judge of a High Court or the Supreme Court and who shall be appointed by that Government as the Chairman thereof.

Recom-  
mendation  
by Board.

10. (1) The Board shall, by notice published in such manner as it thinks fit, call upon newspaper establishments and working journalists and other persons interested in the fixation or revision of rates of wages of working journalists to make such representations as they may think fit as respects the rates of wages which may be fixed or revised under this Act in respect of working journalists.

(2) Every such representation shall be in writing and shall be made within such period as the Board may specify in the notice and shall state the rates of wages which, in the opinion of the person making the representation, would be reasonable, having regard to the capacity of the employer to pay the same or to any other circumstance, whichever may seem relevant to the person making the representation in relation to his representation.

(3) The Board shall take into account the representations aforesaid, if any, and after examining the materials placed before it make such recommendations as it thinks fit to the Central Government for the fixation or revision of rates of wages in respect of working journalists; and any such recommendation may specify, whether prospectively or retrospectively, the date from which the rates of wages should take effect.

(4) In making any recommendations to the Central Government, the Board shall have regard to the cost of living, the prevalent rates of wages for comparable employment, the circumstances relating to the newspaper industry in different regions of the country and to any other circumstances which to the Board may seem relevant.

14 of 1947.

11. (1) Subject to the provisions contained in sub-section (2), the Board may exercise all or any of the powers which an Industrial Tribunal constituted under the Industrial Disputes Act, 1947, exercises for the adjudication of an industrial dispute referred to it and shall, subject to the provisions contained in this Act, and the rules, if any, made thereunder, have power to regulate its own procedure.

Powers and procedure of the Board.

(2) Any representations made to the Board and any documents furnished to it by way of evidence shall be open to inspection on payment of such fee as may be prescribed, by any person interested in the matter.

(3) If, for any reason, a vacancy occurs in the office of Chairman or any other member of the Board, the Central Government shall fill the vacancy by appointing another person thereto in accordance with the provisions of section 9 and any proceeding may be continued before the Board so reconstituted from the stage at which the vacancy occurred.

12. (1) As soon as may be, after the receipt of the recommendations of the Board, the Central Government shall make an order in terms of the recommendations or subject to such modifications, if any, as it thinks fit, being modifications which, in the opinion of the Central Government, do not effect important alterations in the character of the recommendations.

Powers of Central Government to enforce recommendations of the Wage Board.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may, if it thinks fit,—

(a) make such modifications in the recommendations, not being modifications of the nature referred to in sub-section (1), as it thinks fit:

Provided that before making any such modifications, the Central Government shall cause notice to be given to all persons likely to be affected thereby in such manner as may be prescribed, and shall take into account any representations which they may make in this behalf in writing; or

(b) refer the recommendations or any part thereof to the Board, in which case, the Central Government shall consider its further recommendations and make an order either in terms of the recommendations or with such modifications of the nature referred to in sub-section (1) as it thinks fit.

(3) Every order made by the Central Government under this section shall be published in the Official Gazette together

with the recommendations of the Board relating to the order and the order shall come into operation on the date of publication or on such date, whether prospectively or retrospectively, as may be specified in the order.

Working journalists entitled to wages at rates not less than those specified in the order.

Power of Government to fix interim rates of wages.

Substitution of new sections for section 17.

Recovery of money due from an employer.

13. On the coming into operation of an order of the Central Government under section 12, every working journalist shall be entitled to be paid by his employer wages at the rate which shall in no case be less than the rate of wages specified in the order.

13A. (1) Notwithstanding anything contained in this Act, where the Central Government is of opinion that it is necessary so to do, it may, after consultation with the Board, by notification in the Official Gazette, fix interim rates of wages in respect of working journalists.

(2) Any interim rates of wages so fixed shall be binding on all employers in relation to newspaper establishments and every working journalist shall be entitled to be paid wages at a rate which shall, in no case, be less than the interim rates of wages fixed under sub-section (1).

(3) Any interim rates of wages fixed under sub-section (1) shall remain in force until the order of the Central Government under section 12 comes into operation.”

5. For section 17 of the principal Act, the following sections shall be substituted, namely:—

“17. (1) Where any amount is due under this Act to a newspaper employee from an employer, the newspaper employee himself, or any person authorised by him in writing in this behalf, or in the case of the death of the employee, any member of his family may, without prejudice to any other mode of recovery, make an application to the State Government for the recovery of the amount due to him, and if the State Government, or such authority, as the State Government may specify in this behalf, is satisfied that any amount is so due, it shall issue a certificate for that amount to the Collector, and the Collector shall proceed to recover that amount in the same manner as an arrear of land revenue.

(2) If any question arises as to the amount due under this Act to a newspaper employee from his employer, the State Government may, on its own motion or upon application made to it refer the question to any Labour Court constituted by it under

14 of 1947.

the Industrial Disputes Act, 1947 or under any corresponding law relating to investigation and settlement of industrial disputes in force in the State and the said Act or law shall have effect in relation to the Labour Court as if the question so referred were a matter referred to the Labour Court for adjudication under that Act or law.

(3) The decision of the Labour Court shall be forwarded by it to the State Government which made the reference and any amount found due by the Labour Court may be recovered in the manner provided in sub-section (1).

17A. Every employer in relation to a newspaper establishment shall prepare and maintain such registers, records and muster-rolls and in such manner as may be prescribed.

Mainten-  
ance of  
registers,  
records,  
and  
muster-  
rolls.

17B. (1) The State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act and may define the local limits within which they shall exercise their functions.

Inspectors.

29 of 1958.

(2) Any Inspector appointed under sub-section (1) may for the purpose of ascertaining whether any of the provisions of this Act or of the Working Journalists (Fixation of Rates of Wages) Act, 1958 have been complied with in respect of a newspaper establishment—

(a) require an employer to furnish such information as he may consider necessary;

(b) at any reasonable time enter any newspaper establishment or any premises connected therewith and require any one found in charge thereof to produce before him for examination any accounts, books, registers and other documents relating to the employment of persons or the payment of wages in the establishment;

(c) examine with respect to any matter relevant to any of the purposes aforesaid, the employer, his agent or servant or any other person found in charge of the newspaper establishment or any premises connected therewith or any person whom the Inspector has reasonable cause to believe to be or to have been an employee in the establishment;

(d) make copies of or take extracts from any book, register or other documents maintained in relation to the newspaper establishment;

(e) exercise such other powers as may be prescribed.

(3) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code.

45 of 1868.

(4) Any person required to produce any document or thing or to give information by an Inspector under sub-section (2) shall be legally bound to do so."

**Amend-  
ment of  
section 18.** 6. In section 18 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:—

'(1) If any employer contravenes any of the provisions of this Act or any rule or order made thereunder, he shall be punishable with fine which may extend to two hundred rupees.

(1A) Whoever, having been convicted of any offence under this Act, is again convicted of an offence involving the contravention of the same provision, shall be punishable with fine which may extend to five hundred rupees.

(1B) 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 section, 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.

(1C) Notwithstanding anything contained in sub-section (1B), where an offence under this section 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 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 such offence and shall be liable to be proceeded against and punished accordingly.

(1D) 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.'

7. In section 19 of the principal Act, after the words "member of the Board", the words "or an Inspector appointed under this Act" shall be inserted. Amendment of section 19.

8. After section 19 of the principal Act, the following sections shall be inserted, namely:— Insertion of new sections 19A and 19B.

"19A. No act or proceeding of the Board shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of the Board.

**29 of 1958.**

19B. Nothing in this Act or the Working Journalists (Fixation of Rates of Wages) Act, 1958 shall apply to any working journalist who is an employee of the Government to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Services (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the Central Government in the Official Gazette, apply." Saving.

9. In section 20 of the principal Act,— Amendment of section 20.

(i) in sub-section (2), for clauses (d), (e) and (f), the following clauses shall be substituted, namely:—

"(d) the procedure to be followed by the Board in the discharge of its functions under this Act;

(e) the form of nominations, and the manner in which nominations may be made;

(f) the manner in which any person may be appointed for the purposes of sub-section (3) of section 5A;

(g) the variation or cancellation of nominations;

(h) the manner of giving notice under clause (a) of sub-section (2) of section 12;

(i) the registers, records and muster-rolls to be prepared and maintained by newspaper establishments, the forms in which they should be prepared and maintained and the particulars to be entered therein;

(j) the powers that may be exercised by an Inspector;

(k) any other matter which has to be, or may be, prescribed.”;

(ii) 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 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.”.

Amend-  
ment of  
Act 29 of  
1958.

**10.** The Working Journalists (Fixation of Rates of Wages) Act, 1958 shall be amended in the manner hereinafter specified, namely:—

(a) section 8 shall be omitted;

(b) in section 9—

(i) in sub-section (1), for the words “the working journalist may”, the words “the working journalist himself, or any other person authorised by him in writing in this behalf or in the case of the death of the working journalist, any member of his family may” shall be substituted;

(ii) for sub-section (2), the following sub-section shall be substituted; namely:—

"(2) If any question arises as to the amount due under this Act to a working journalist from his employer, the State Government may, on its own motion or upon application made to it, refer the question to any Labour Court constituted by it under the Industrial Disputes Act, 1947 or under any corresponding law relating to investigation and settlement of industrial disputes in force in the State and the said Act or law shall have effect in relation to the Labour Court as if the question so referred were a matter referred to the Labour Court for adjudication under that Act or law.";

(c) after section 12, the following section shall be inserted, namely:—

'12A. (1) Any employer who contravenes the provisions of Penalty section 7 shall be punishable with fine which may extend to two hundred rupees.

(2) Whoever, having been convicted of any offence under sub-section (1), is again convicted of an offence under that sub-section, shall be punishable with fine which may extend to five hundred rupees.

(3) 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 section 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.

(4) Notwithstanding anything contained in sub-section (3), where an offence under this section 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 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 such offence and shall be liable to be proceeded against and punished accordingly.

(5) 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.

THE CONSTITUTION (TWELFTH AMENDMENT)  
ACT, 1962

[27th March, 1962]

An Act further to amend the Constitution of India.

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

1. (1) This Act may be called the Constitution (Twelfth Amendment) Act, 1962. Short title and commencement.
- (2) It shall be deemed to have come into force on the 20th day of December, 1961.
2. In the First Schedule to the Constitution, under the heading "THE UNION TERRITORIES", after entry 7, the following entry shall be inserted, namely:— Amendment of the First Schedule to the Constitution.
- "8. Goa, Daman and Diu. The territories which immediately before the twentieth day of December, 1961 were comprised in Goa, Daman and Diu."
3. In article 240 of the Constitution, in clause (1), after entry (c), the following entry shall be inserted, namely:— Amendment of article 240.
- "(d) Goa, Daman and Diu."

THE CONSTITUTION (THIRTEENTH AMENDMENT)  
ACT, 1962

[28th December, 1962]

An Act further to amend the Constitution of India.

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 Constitution (Thirteenth Amendment) Act, 1962.

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

Amend-  
ment of  
Part XXI.

2. In PART XXI of the Constitution—

(a) for the heading, the following heading shall be substituted, namely:—

“TEMPORARY, TRANSITIONAL AND SPECIAL PROVISIONS”;

(b) after article 371, the following article shall be inserted, namely:—

“371A. (1) Notwithstanding anything in this Constitution,—

(a) no Act of Parliament in respect of—

(i) religious or social practices of the Nagas,  
(ii) Naga customary law and procedure,

(iii) administration of civil and criminal justice involving decisions according to Naga customary law,

(iv) ownership and transfer of land and its resources,

shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides;

(b) the Governor of Nagaland shall have special responsibility with respect to law and order in the State

of Nagaland for so long as in his opinion internal disturbances occurring in the Naga Hills-Tuensang Area immediately before the formation of that State continue therein or in any part thereof and in the discharge of his functions in relation thereto the Governor shall, after consulting the Council of Ministers, exercise his individual judgment as to the action to be taken:

Provided that if any question arises whether any matter is or is not a matter as respects which the Governor is under this sub-clause required to act in the exercise of his individual judgment, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in the exercise of his individual judgment:

Provided further that if the President on receipt of a report from the Governor or otherwise is satisfied that it is no longer necessary for the Governor to have special responsibility with respect to law and order in the State of Nagaland, he may by order direct that the Governor shall cease to have such responsibility with effect from such date as may be specified in the order;

(c) in making his recommendation with respect to any demand for a grant, the Governor of Nagaland shall ensure that any money provided by the Government of India out of the Consolidated Fund of India for any specific service or purpose is included in the demand for a grant relating to that service or purpose and not in any other demand;

(d) as from such date as the Governor of Nagaland may by public notification in this behalf specify, there shall be established a regional council for the Tuensang district consisting of thirty-five members and the Governor shall in his discretion make rules providing for—

(i) the composition of the regional council and the manner in which the members of the regional council shall be chosen:

Provided that the Deputy Commissioner of the Tuensang district shall be the Chairman *ex officio*

*Constitution (Thirteenth Amendment)*

of the regional council and the Vice-Chairman of the regional council shall be elected by the members thereof from amongst themselves;

(ii) the qualifications for being chosen as, and for being, members of the regional council;

(iii) the term of office of, and the salaries and allowances, if any, to be paid to members of, the regional council;

(iv) the procedure and conduct of business of the regional council;

(v) the appointment of officers and staff of the regional council and their conditions of services; and

(vi) any other matter in respect of which it is necessary to make rules for the constitution and proper functioning of the regional council.

(2) Notwithstanding anything in this Constitution, for a period of ten years from the date of the formation of the State of Nagaland or for such further period as the Governor may, on the recommendation of the regional council, by public notification specify in this behalf.—

(a) the administration of the Tuensang district shall be carried on by the Governor;

(b) where any money is provided by the Government of India to the Government of Nagaland to meet the requirements of the State of Nagaland as a whole, the Governor shall in his discretion arrange for an equitable allocation of that money between the Tuensang district and the rest of the State;

(c) no Act of the Legislature of Nagaland shall apply to the Tuensang district unless the Governor, on the recommendation of the regional council, by public notification so directs and the Governor in giving such direction with respect to any such Act may direct that the Act shall in its application to the Tuensang district or any part thereof have effect subject to such exceptions or modifications as the Governor may specify on the recommendation of the regional council;

Provided that any direction given under this sub-clause may be given so as to have retrospective effect;

(d) the Governor may make regulations for the peace, progress and good government of the Tuensang district and any regulations so made may repeal or amend with retrospective effect, if necessary, any Act of Parliament or any other law which is for the time being applicable to that district;

(e) (i) one of the members representing the Tuensang district in the Legislative Assembly of Nagaland shall be appointed Minister for Tuensang affairs by the Governor on the advice of the Chief Minister and the Chief Minister in tendering his advice shall act on the recommendation of the majority of the members as aforesaid;

(ii) the Minister for Tuensang affairs shall deal with, and have direct access to the Governor on, all matters relating to the Tuensang district but he shall keep the Chief Minister informed about the same;

(f) notwithstanding anything in the foregoing provisions of this clause, the final decision on all matters relating to the Tuensang district shall be made by the Governor in his discretion;

(g) in articles 54 and 55 and clause (4) of article 80, references to the elected members of the Legislative Assembly of a State or to each such member shall include references to the members or member of the Legislative Assembly of Nagaland elected by the regional council established under this article;

(h) in article 170—

(i) clause (1) shall, in relation to the Legislative Assembly of Nagaland, have effect as if for the word 'sixty', the words 'forty-six' had been substituted;

(ii) in the said clause, the reference to direct election from territorial constituencies in the State shall include election by the members of the regional council established under this article;

*Constitution (Thirteenth Amendment)*

(iii) in clauses (2) and (3), references to territorial constituencies shall mean references to territorial constituencies in the Kohima and Mokokchung districts.

(3) If any difficulty arises in giving effect to any of the foregoing provisions of this article, the President may by order do anything (including any adaptation or modification of any other article) which appears to him to be necessary for the purpose of removing that difficulty:

Provided that no such order shall be made after the expiration of three years from the date of the formation of the State of Nagaland.

*Explanation.—In this article, the Kohima, Mokokchung and Tuensang districts shall have the same meanings as in the State of Nagaland Act, 1962.”*

27 of 1962.

THE CONSTITUTION (FOURTEENTH AMENDMENT)  
ACT, 1962

[28th December, 1962]

An Act further to amend the Constitution of India.

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

1. This Act may be called the Constitution (Fourteenth Amendment) Act, 1962. Short title.

2. In article 81 of the Constitution, in sub-clause (b) of clause (1), for the words "twenty members", the words "twenty-five members" shall be substituted. Amendment of article 81.

3. In the First Schedule to the Constitution, under the heading "II. THE UNION TERRITORIES", after entry 8, the following entry shall be inserted, namely:— Amendment of the First Schedule.

"9. Pondicherry: The territories which immediately before the sixteenth day of August, 1962, were comprised in the French Establishments in India known as Pondicherry, Karikal, Mahe and Yanam."

4. After article 239 of the Constitution, the following article shall be inserted, namely:— Insertion of new article 239A.

"239A. (1) Parliament may by law create for any of the Union territories of Himachal Pradesh, Manipur, Tripura, Goa, Daman and Diu, and Pondicherry—

(a) a body, whether elected or partly nominated and partly elected, to function as a Legislature for the Union territory, or

(b) a Council of Ministers, or both with such constitution, powers and functions, in each case, as may be specified in the law.

(2) Any such law as is referred to in clause (1) shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending this Constitution."

Amend-  
ment of  
article 240.

5. In article 240 of the Constitution, in clause (1),—

(a) after entry (d), the following entry shall be inserted, namely:—

“(e) Pondicherry:”;

(b) the following proviso shall be inserted at the end, namely:—

“Provided that when any body is created under article 239A to function as a Legislature for the Union territory of Goa, Daman and Diu or Pondicherry, the President shall not make any regulation for the peace, progress and good government of that Union territory with effect from the date appointed for the first meeting of the Legislature.”

Amend-  
ment of  
the Fourth  
Schedule.

6. In the Fourth Schedule to the Constitution, in the Table,—

(a) after entry 20, the entry

“21. Pondicherry .. 1” shall be inserted;

(b) for the figures “225”, the figures “226” shall be substituted.

Retrospec-  
tive opera-  
tion of  
certain  
provisions.

7. Section 3 and clause (a) of section 5 shall be deemed to have come into force on the 16th day of August, 1962.

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